

22 APRIL 1947

I N D E X
of
EXHIBITS

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
1005	2475		Affidavit of TANAKA, Shizuka		20460
1019-A	2476-A		Treaty between Japan and Manchukuo re the Abolition of Extra- territoriality in Man- chukuo and the Trans- fer of the Administra- tive Rights over the South Manchurian Rail- way Zone		20473
1019-B	2476-B		Supplementary Agreement "A"		20473
1019-C	2476-C		Agreed Terms of Understand- ing between the Pleni- potentiaries of Japan and Manchukuo re the Treaty between the two countries		20473
1019-D	2476-D		Supplementary Agreement "B"		20473
			<u>MORNING RECESS</u>		20480
1134	2477		Statement of the Time and Place of Events which occurred from the Lukouchiao Incident until the Establishment of the General Head- quarters		20508

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Of
EXHIBITS
(cont'd)

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<u>NOON RECESS</u>					
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970	2479		Affidavit of KAWABE, Masakazu		20519
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I N D E X
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1 Tuesday, 22 April 1947

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3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, same as before.

14 For the Prosecution Section, same as before.

15 For the Defense Section, same as before.

16 - - -

17 (English to Japanese and Japanese
18 to English interpretation was made by the
19 Language Section, INTFE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in
3 session.

4 THE PRESIDENT: All the accused are present
5 except TOGO and HIRANUMA who are represented by
6 their counsel. The Prison Surgeon at Sugamo
7 certifies that both are ill and unable to attend
8 the trial today.

9 The certificate will be recorded and filed.
10 Major Blakeney.

11 MR. BLAKENEY: At yesterday's adjournment
12 I was requested by the President to state our
13 latest estimate of the remaining time to be
14 consumed by the general phases of the defense case.
15 Taking warning from the attempts of the prose-
16 cution along this line through last year, we do
17 not wish to be very dogmatic in this respect; and,
18 of course, the Tribunal does, I am sure, appreciate
19 the difficulties of making an intelligent estimate
20 in this matter. I have, however, taken the
21 opinions of such of my colleagues as have been
22 available and have struck an average of those
23 opinions. The figure thus arrived at works out
24 to between three and one-third and three and one-half
25 months.

1 THE PRESIDENT: From now, Major Blakeney?

2 MR. BLAKENEY: The time remaining from now,
3 that is, to see us through the completion of all
4 general phases.

5 THE PRESIDENT: Have you made any estimate
6 for the whole case which you would like to disclose,
7 that is, for the whole of the case for the defense?

8 MR. BLAKENEY: That has not as yet been
9 discussed.

10 THE PRESIDENT: Our respective national
11 governments and courts are interested in this,
12 of course. No threat is implied.

13 MR. BLAKENEY: Nor does my estimate
14 constitute a threat to the Tribunal.

15 THE PRESIDENT: Thank you.

16 MR. BLAKENEY: I was reading yesterday
17 from prosecution exhibit No. 445.

18 THE PRESIDENT: I have a correction to
19 make on page 20,384 of the record, lines 11
20 and 12: Delete the words from "yet" to "another"
21 and substitute "Usually you are made to conform
22 to one religion and to abjure another."

23 MR. BLAKENEY: I have remaining a few
24 excerpts, mostly brief, from the document exhibit
25 445.

1 THE PRESIDENT: I think it is the desire
2 of the Tribunal that you be assured that our
3 inquiry about the time the general phases are
4 going to take does not mean shutting out anything
5 relevant. The accused will get their full and
6 fair trial which is required by the Charter.

7 Yes, Major Blakeney.

8 MR. BLAKENEY: I read from the second
9 paragraph on page 12 of the document in question.

10 "Modern city plans have also been projected
11 to the cities of Harbin, Mukden, Kirin, Tsitsihar,
12 as important cities of Manchoukuo, and as they are
13 put into operation one after another, these cities
14 will have aspects of beautiful modern cities in
15 the near future.

16 "B. Development of Agriculture.

17 "Agriculture is the mainstay of our national
18 economy. The objective for the increase of farm
19 produces lies in planning to become self-sufficient
20 in those products which at present must be imported
21 from abroad, as well as in striving to export in
22 greater quantities agricultural produces in general
23 and thereby secure a large measure of happiness and
24 benefit for the rural masses and elevate their
25 standard of living.

1 I go to page 13 to the paragraph at the
2 bottom of the page.

3 "3. Forestry.

4 "The principal object of forestry will be
5 to endeavor to restrict and control the indiscrim-
6 inate felling of trees, and to protect and increase
7 the production of trees, as well as to preserve the
8 production capacity of forests through rationalised
9 management.' 'All existing rights of forest-ownership
10 will be readjusted and State forests should be
11 administered by the State.'"

12 I go now to page 15, the first paragraph
13 headed "5. Land."

14 "A survey of lands will be started
15 immediately, land system established, and evils which
16 attend the unscrupulous annexation of land will be
17 prevented."-- that only from that page.

18 On page 20, the third paragraph, consisting
19 of one sentence:

20 "The tariff policy will be designed to
21 promote foreign trade and international transactions."

22 THE PRESIDENT: That was read by the pros-
23 ecution, wasn't it? It is so marked in my copy as
24 having been read by them.

25 MR. BLAKENEY: Possibly it was.

1 I go to page 13 to the paragraph at the
2 bottom of the page.

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4 "The principal object of forestry will be
5 to endeavor to restrict and control the indiscriminate
6 felling of trees, and to protect and increase
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21 promote foreign trade and international transactions."

22 THE PRESIDENT: That was read by the pros-
23 ecution, wasn't it? It is so marked in my copy as
24 having been read by them.

25 MR. BLAKENEY: Possibly it was.

1 I shall now read page 21, not read by the
2 prosecution, in its entirety.

3 "F. Improvement of Private Economy.

4 "The Government of Manchoukuo desires to
5 improve the private economy of this country and
6 will not tolerate the existence of any class of
7 idlers in the country; it will encourage the virtues
8 of self-dependence and cooperation with others, for
9 which objects the following measures were adopted:

10 "'1. The lives and properties of the
11 people will be safeguarded with all available means.

12 "'2. Necessary arrangements will be
13 considered by the Government and people to prepare
14 against famines and other natural calamities, and
15 thereby prevent starvation among the inhabitants.

16 "'3. National power will be expanded by
17 readjusting taxation, and by rationally dividing and
18 lightening the burden of the people.

19 "'4. The necessities of life will be
20 supplied to the people at low prices.

21 "'5. The fruits of mutual assistance will
22 be secured by effecting a sound development of various
23 industrial and credit associations.

24 "'6. Measures will be provided to give work
25 to the unemployed.'

1 "In order to execute these objects, the
2 Government has taken every means during these five
3 years.

4 "For the natural calamities and bandit dis-
5 asters which unhappily happened since the foundation
6 of the new State, the Government made its best exertions
7 to make the best of them.

8 "Emergency warehouse system, auction system,
9 revision of taxation system, circulation of money
10 in the agricultural villages, establishment of
11 fraternal societies may be numerated as their examples.

12 "As above-mentioned, Manchoukuo carried the
13 proclamation of the establishment and fundamental
14 policies for economic construction into execution
15 faithfully and attained splendid achievement and
16 most of them display better results than expected.
17 You may easily draw your conclusion if you compare
18 these results with the reports of the Lotton Commission
19 of Enquiry and the Barnby Commission of Enquiry.

20
21 "If you compare above-mentioned results to
22 those of the Soviet Union and the Chinese Republic
23 and investigate how many percents of their promised
24 policies have been put into execution, you would
25 recognize our splendid achievement."

1 THE PRESIDENT: None of that was read by
2 the prosecution.

3 MR. BLAKENEY: No, sir.

4 And from page 32 in the paragraph numbered
5 4:

6 (Reading) "Money Market." I shall read
7 the second half of the sentence not read by the
8 prosecution.

9 "At the same time the government laid a
10 plan further to rearrange and strengthen the
11 local ordinary banks, to increase rural coopera-
12 tive credit association, to establish newly urban
13 cooperative credit associations, to manage to bring
14 these associations into full play, to reduce the
15 rate of interest in order to assist the monetary
16 activities of middle and small scale commercial and
17 industrial men as well as farmers."

18 That concludes the reading from that docu-
19 ment.

20 Language Section: Top of page 17.

21 As further evidence of Manchukuo's attempt
22 to entice foreign capital, I read from prosecution
23 exhibit 446, on page 54. The table at the bottom
24 of the page, which I shall not read in its entirety,
25 shows the disbursements in third Powers to be 27

1 per cent of the total for the 5-Year Plan as com-
2 pared with 30 per cent of the total disbursements
3 of the plan in Japan.

4 From page 56 I read the second paragraph
5 from the bottom of the page, consisting of one sen-
6 tence:

7 "(a) Introduction of Foreign Capital in
8 connection with Automobile and Aircraft Manufactur-
9 ing Industries: 340,000,000 yen."

10 Only that from this document.

11 For its value in showing that Manchukuo
12 and the Kwantung Army had no plans for aggressive
13 warfare or for the exclusion of foreigners from
14 Manchukuo, I now offer in evidence defense document
15 No. 569, a letter showing that in 1938 an American
16 Engineering firm made a thorough survey of the lead-
17 ing heavy industry in Manchuria, the SHOWA Steel
18 Works.

19 THE PRESIDENT: Brigadier Quilliam, we will
20 hear your objections when we have the document. It
21 is easier to follow.

22 BRIGADIER QUILLIAM: It is submitted, if
23 it please the Tribunal, that this document does not
24 in any way assist to determine the question of aggres-
25 sive war. In our submission it has no probative value

1 and it is also irrelevant. It is a letter from a
2 firm of engineers. It merely shows that in the
3 opinion of these engineers a certain steel plant
4 in Manchuria is capable of expansion. In substance,
5 the document is merely a reference to a report
6 which is not produced. For these reasons, it is
7 submitted that the document can be of no assistance
8 to the Tribunal.

9 THE PRESIDENT: Major Blakeney.

10 MR. BLAKENEY: My learned friend discusses
11 this question as if it were one of hearsay. It is
12 not.

13 THE PRESIDENT: That would not be an objec-
14 tion. However, what is its relevance?

15 MR. BLAKENEY: We have no concern whatever
16 with the content or nature of the report made.

17 THE PRESIDENT: It does not appear to have
18 any bearing on any issue, Major Blakeney.

19 MR. BLAKENEY: The allegation is made that
20 the Japanese, for reasons of their own, exploited
21 Manchuria and excluded others therefrom while they
22 built up an armaments industry.

23 I am told by the Clerk that we are looking
24 at different documents.

25 THE PRESIDENT: Yes.

1 MR. BLAKENEY: To continue my submission:
2 The correct document, it is submitted, is valuable
3 as showing that the Manchurian Industrial Develop-
4 ment Corporation was willing to call in foreign --
5 to wit, American -- engineers to inspect their
6 alleged munitions plants and particularly the SHOWA
7 Steel Works. The document is therefore offered for
8 its value as circumstantial evidence of intention
9 of the persons concerned in Manchuria.

10 THE PRESIDENT: The Court upholds the
11 objection and rejects the document.

12 MR. BLAKENEY: Defense document No. 566,
13 being an excerpt from "Mineral Resources of Manchuria
14 as a Basis for Industry," a report made for the
15 Manchuria Industrial Development Corporation by
16 H. Foster Bain, is, I may say, tendered with the
17 same intention and for the same reasons.

18 THE PRESIDENT: Brigadier Quilliam.

19 BRIGADIER QUILLIAM: May it please the
20 Tribunal, we also object to this document. It is
21 the introduction to a report in this case. It
22 shows that there are undeveloped mineral resources
23 in Manchuria.

24 The prosecution cannot dispute that point
25 and would not desire to do so; nor can it be dis-

1 puted that Japan was very anxious to develop these
2 resources. It is also understandable that any
3 outside assistance, and particularly American, would
4 be helpful in such development. But these matters
5 are not in issue. What is in issue is the reason
6 for Japan's anxiety to develop those resources, and
7 that subject isn't remotely touched upon in the docu-
8 ment.

9 MR. BLAKENEY: The question of the reason
10 for Japan's desire to develop these resources is,
11 as Brigadier Quilliam says, the issue here. I
12 suggest that a significant inference can be drawn
13 on the question of whether the intention was to plan
14 aggressive war by the introduction of foreign ex-
15 perts and scientists to see and inspect what was
16 being done as late as 1938.

17 THE PRESIDENT: The Court upholds the
18 objection and rejects the document.

19 MR. BLAKENEY: Now follows the witness
20 TANAKA, Shizuka whose evidence is embodied in
21 defense document No. 1,005. The witness will be
22 examined by Mr. Williams.
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TANAKA

DIRECT

1 SHIZUKA TANAKA, called as a witness
2 on behalf of the defense, being first duly
3 sworn, testified through Japanese interpreters
4 as follows:

DIRECT EXAMINATION

BY MR. G. C. WILLIAMS:

Q Will you tell the Tribunal your name and
8 residence, please?

9 A Name: TANAKA, Shizuka Residence: Azabu
10 Ward, Minatocho 21 -- Minato Ward, Azabu, Nakanochō
11 21.

12 MR. G. C. WILLIAMS: May the witness be
13 handed defense document No. 1,005?

14 (Whereupon, a document was handed to
15 the witness.)

16 Q Will you briefly examine that document,
17 please, and tell the Tribunal whether or not it is
18 your affidavit?

19 A There is no mistake about it.

20 Q Are the contents thereof true and correct?

21 A I have discovered that there is one word
22 misused. I would like to make an alteration.

23 Q Where is that mistake, please?

24 A On the third page from the last. In the
25 Japanese version it is the third page from the last,

TANAKA

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1 wherein it says "Mr. Foster Bain, of New York." This
2 should be Chicago. This "Brassert Company of New
3 York" should be "Brassert Company of Chicago."

4 Q Aside from those errors are there any other
5 changes?

6 A No.

7 MR. G. C. WILLIAMS: We offer in evidence
8 defense document No. 1,005, the affidavit of the
9 witness TANAKA.

10 THE PRESIDENT: Admitted on the usual terms.

11 THE CLERK OF THE COURT: Defense document
12 1,005 will receive exhibit No. 2475.

13 (Whereupon, the document above referred
14 to was marked defense exhibit 2475 and received
15 in evidence.)
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MR. G. WILLIAMS: (Reading)

"I, TANAKA, Shizuka, swear on my conscience that the following statement is true to the best of my knowledge and belief:

"I was in the employ of Finance Ministry of Japan since April 1923 when I was graduated from Tokyo Imperial University, the 12th year of Taisho to July 1932 when I was selected as one of the group of young officials for the posts in the Manchukuo Government. We all arrived in Hsinking 17th July 1932 and assumed the new posts. From that time I was in the service of Finance Department (later called Economic Department) of Manchukuo Government until the end of 1937 when I assumed the post of the directorship of Manchuria Heavy Industry Development Company on its establishment. In October 1944, I was selected to be one of the directors of Manchuria Steel Works Corporation and remained in the same position until the end of this war.

"After the foundation of Manchukuo the most fundamental problem of great importance confronting the new state was the establishment of financial basis and unification of currencies. However, there could be found no fitting personnel available for the post who could undertake this kind of work. Manchukuo

TANAKA

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1 Government, then, requested the Japanese Government
2 to send some officials who were acquainted with this
3 kind of business to undertake the task. I was chosen
4 for this post with Mr. HOSHINO, Naoki and others
5 by Mr. TAKAHASHI, Korekiyo, then Finance Minister
6 of Japan, and Mr. OHNO, Ryuta, then Chief of the
7 Secretariat Division thereof. When we were told by
8 them about going over to the far away new state of
9 which we knew very little, we all, and especially
10 Mr. HOSHINO, declined to accept the posts, but after
11 their persuasions, we decided to go realizing that
12 some should go anyway.

13 "I recollect being told by viscount SAITO,
14 Makoto, then Prime Minister and assassinated in 1936,
15 when we took leave of him that we should be going over
16 there not as Japanese officials but to become the
17 officials of Manchukuo and keep this fact always in
18 mind while being in the service.

19 "On arrival in Hsinking I was appointed the
20 Chief of Finance Bureau in the Finance Department,
21 while Mr. HOSHINO, the Chief of General Affairs
22 Bureau in the same department. The Minister of
23 Finance was then Mr. Hsi-Hsia and Vice-Minister
24 thereof was Sun Chi-Chiang and after Mr. Hsi-Hsia
25 was relieved of the post, Mr. Sun was promoted to

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1 the Minister and Mr. Hung Wei-Kuo was appointed the
2 Vice-Minister.

3 "The Finance Department consisted then of
4 the following three bureaus; namely, General Affairs,
5 Finance and Revenue. The Finance Bureau was chiefly
6 engaged in the business concerning banking and
7 currency, while Revenue Bureau had taxation and
8 custom duties.

9 "The duty of the Chief of the General
10 Affairs Bureau was to maintain the coordination and
11 unification of the business among all other bureaus,
12 and has no such superior position to the Bureau Chief
13 as the Vice-Minister had.

14 "As it has very often proved difficult to
15 discharge business in such position from a practical
16 point of view the office of the Chief of General
17 Affairs Bureau was abolished later when the re-
18 organizations of various departments were carried out.

19 "It was a little before assuming our new
20 duties in the Manchukuo Government that it started
21 to take over the administrations of Kirin-Heilung-
22 Kiang Salt Monopoly Office, Liaoning salt administration
23 office and Maritime Customs one after another and to
24 separate the financial office from every provincial
25 government so as to put it under the control of the

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1 Finance Department and thereby to concentrate the
2 profit from salt monopolies, salt taxes, maritime
3 customs and internal revenues in the same department.
4 However, being without any definite prospect as to
5 how much of these incomes could be realized, the
6 government could find no other way than to live on
7 a monthly budget which was extremely partial. Under
8 such circumstances we were instructed to endeavor
9 to find an estimated amount of yearly income within
10 as short a time as possible.

11 "On the other hand, the Central Bank of
12 Manchu which had opened its business on 1 July 1932,
13 had set on the work of unification of old currencies
14 with a new currency issued by it. As the most important
15 task which the government was then confronting was
16 the maintenance of the value of the new currency,
17 it had to avoid by all means the unbalance of income
18 and expenditure and loans from the Central Bank.
19 But due to the unsatisfactory conditions of peace
20 and order, the prospect of income was pessimistic,
21 and in addition thereto increase of expenditure
22 became unavoidable to defray the expenses for
23 reconstructive works for the damages caused by floods
24 in North Manchuria. Therefore, a plan was suggested
25 in the government for raising a loan in Japan, which

TANAKA

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1 if it could be realized, would as well contribute
2 to the maintenance of the value of the currency.
3 The government sent Mr. HOSHINO, the Chief of the
4 General Affairs Bureau of the Finance Ministry which
5 took charge of the matters pertaining to the loan
6 and Mr. YAMANARI, Vice-President of the Central
7 Bank, to Japan for negotiating loans in October of
8 the same year. As I recollect, a report soon came
9 from them in Tokyo telling us that the banking
10 circles in Tokyo were not as favorable for the loan
11 to be floated as was the Manchukuo Government as they
12 were afraid there might be small hope of marketability
13 of it, and further, that, if they would agree to the
14 floatation of the loan, they would surely demand a
15 guarantee as they used to do for a loan to China.

16 "After the deliberation in the government,
17 it was decided that profit from opium and salt
18 monopoly should be made the security because such
19 revenue from taxations and customs were not considered
20 proper for the purpose, and it was also decided that
21 the monopoly profits should be made securities only
22 on condition that it would be free for Manchukuo
23 to change the monopoly system whenever it might be
24 necessary. We then instructed Mr. YAMANARI and Mr.
25 HOSHINO accordingly. Later, on receiving the notice

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1 from them that the negotiation had been taking a
2 favorable turn through the good offices of Mr.
3 TAKAHASHI, the Finance Minister of Japan, and that
4 the ¥ 30,000,000 loan would be floated as was expected
5 by us, the Government of Manchukuo took measures
6 necessary to carry out this loan agreement. The
7 law concerning the state foundation loan was thus
8 promulgated 16 November 1932 in Hsinking, while in
9 Tokyo the agreement was signed the 19th of the same
10 month by Mr. HOSHINO and Mr. YAMANARI representing
11 us and by the representatives of Japanese loan
12 syndicate. This loan could be duly repaid as agreed
13 within seven years.

14 "It was in October 1932 when the first
15 Manchukuo yearly budget could be formed. In this
16 budget, the least possible expenditure was estimated,
17 the loan from the Central Bank being limited to the
18 amount of little more than ¥ 10,000,000. Simultaneously
19 with these steps, measures were successfully taken
20 to concentrate all sources of revenue which had been
21 in the hands of various provincial organs under the
22 control of the central government. Thus the yearly
23 budget system could be accomplished in 1933 on a sound
24 financial basis.

25 "As I stated before, one of the most important

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1 tasks of the new government was to stabilize and
2 maintain the value of the new currency, and this
3 task was to be done mainly by the Finance Bureau
4 of the Finance Department of which I was then the
5 Chief. When I arrived in Hsinking, the government
6 had already started the unification work of currencies.
7 The law concerning the adjustments of old currencies
8 had been promulgated already in June 1932 and the
9 work of redemption of old notes was in progress.
10 However, a greater portion of these notes were still
11 left in circulation and yet to be redeemed. There
12 were about fifteen kinds of such notes which had
13 been issued by various provincial banks under the
14 old regime, and which had annoyed the people very
15 much, each with its constantly fluctuating value to
16 a greater degree. It was in August 1935 that the
17 unification of the currency was accomplished and in
18 line.

19 "The Manchukuo Government adopted a new
20 currency based on silver as was prescribed by the
21 provisions of the Currency Law of 1932 and endeavored
22 to maintain the value of Yuan equal to the price of
23 23.91 grammes of pure silver. The new currency was
24 welcomed by Manchurian natives as they had become
25 accustomed to silver dollars and we were able to

TANAKA

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1 retain its stability as the overall financial condition
2 in the country was rapidly improving and the balance
3 of payment in the foreign markets was favorable.

4 "We went on with this currency based on
5 silver until 1935 when we finally were compelled to
6 be divorced from silver in order to save our economy
7 from the difficulties caused by the world silver
8 situation.

9 "Another important task to be discharged
10 relative to the unification of currency was the
11 arrangement for the withdrawal of the Bank of Chosen
12 notes from Manchukuo. The Bank of Chosen had been
13 entitled to issue its notes even in Manchukuo and the
14 notes had been treated as legal tender in the South
15 Manchurian Railway zone and among Japanese even in
16 Manchukuo proper. The amount of the notes in circulation
17 in Manchukuo was large, of which accurate estimation
18 no one could easily make. In view of the currency
19 unification such a state of affairs was very much
20 undesirable for us, and should be remedied as soon
21 as possible. In November 1935, we were successful
22 in obtaining the understanding of the Japanese
23 Government for the ceasing of circulation of these
24 notes. In August 1936, I was sent over to Tokyo to
25 negotiate further with the Department of Finance

1 concerning such concrete measures as were necessary
2 to carry out the agreement and to liquidate the
3 undertakings to be closed therewith. As a result
4 of this negotiation, the Bank of Chosen notes ceased
5 circulating in Manchukuo from January 1937. This
6 arrangement contributed very much for the integrity
7 and independence of Manchukuo from the economic
8 and financial point of view.

9 "Concerning the economic and industrial
10 activities, it was the definite policy of Manchukuo
11 to treat any of its citizens equally and priority was
12 never accorded to any of them. There were many
13 corporations in Manchukuo, semi-governmental and usual,
14 however none of these doors were ever closed to
15 Manchurian natives for investment therein if it
16 was open for any other citizen. The government even
17 made special effort to encourage the investment
18 from Manchurian citizens in case of such shares
19 like those of Manchu Electric Company which was
20 deemed promising, but very few would take them.
21 Generally speaking, they did not show any interest
22 at all in investment in stock. Later the government
23 established in Harbin a stock exchange which was
24 specially intended for the use of Manchurian citizens.
25 In view of this purpose, all the members of this

TANAKA

DIRECT

1 stock exchange were made to consist of Manchurian
2 citizens. However, in spite of such an arrangement
3 Manchurian citizens did not use this institution
4 as we expected.

5 "I was selected as one of the directors of
6 the Manchurian Heavy Industries Development Company
7 in December 1937 on its foundation. The president
8 thereof was Mr. AIKAWA, Gisuke, while its vice-
9 president was a Manchurian by name of Mr. Feng
10 Hang-ching. Besides Mr. AIKAWA and Mr. Feng, there
11 were six directors including one Manchurian citizen.
12 The idea of Mr. AIKAWA's was to develop Manchuria
13 under a well coordinated plan and by such highly
14 advanced and grand-scale methods as were carried on
15 in the U.S.A. and for this purpose he felt keenly
16 the necessity of inviting investments and industrial
17 techniques from the U.S.A. All the directors cooper-
18 ated with him in carrying out this scheme. Mr.
19 Foster Bain of Chicago was employed to conduct
20 a thorough investigation into the mineral resources
21 of Manchuria, and Brassert Company of Chicago was
22 employed to map out a plan for enlargement of Anshan
23 Steel Mill which was to be one of the biggest in the
24 Orient. The Company sent Mr. ASAHARA, Censhichi,
25 YAMAMOTO, Soji and YANO, Yoshiski one after another

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DIRECT

1 to the United States in its effort to obtain
2 investment and other cooperation from industrialists
3 there.

4 "Through their efforts they could solicit
5 the investment and cooperation from Mesta Machine
6 Company of Pittsburgh, Pennsylvania. Unfortunately,
7 an unexpected development and the expansion of the
8 China Incident in 1937 and thereafter, put an obstacle
9 in achieving a desired end, as the public opinion
10 in foreign countries, especially in the United
11 States, became unfavorable to such undertaking. Mr.
12 AIKAWA and all of us concerned worried over the
13 situation, but the affairs were taking a turn from
14 bad to worse.

15 "Since the mission and the ideal of the
16 company had failed in this manner, Mr. AIKAWA left
17 Manchukuo as soon as his first term as the president
18 thereof came to an end. What the company aimed at
19 was the peaceful development of Manchukuo and to
20 elevate her to be one of the modern industrial
21 states of the world.

22 "Signed TANAKA, Shizuka"

23 You may cross-examine.

24 BRIGADIER QUILLIAM: May it please the
25 Tribunal, there will be no cross-examination.

TANAKA

1 MR. BLAKENEY: May the witness be excused
2 on the usual terms?

3 (Whereupon, the witness was excused.)
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1 MR. BLAKENEY: As evidence of the increasingly
2 independent status of Manchukuo, I offer in evidence
3 defense documents No. 1019 A, B, C, and D, the treaty
4 and attached agreements for the abolition of Japanese
5 extraterritorial rights in Manchukuo.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Defense document 1019A
8 will receive exhibit No. 2476A; defense document
9 1019B will have 2476B; defense document 1019C will
10 have 2476C; and defense document 1019C will have
11 2476D.

12 (Whereupon, the documents above
13 referred to were marked defense exhibits
14 No. 2476A, 2476B, 2476C, and 2476D,
15 respectively, and received in evidence.)

16 MR. BLAKENEY: I shall read from exhibit
17 2476A, page 2, Articles I to III. Have they been
18 distributed?

19 THE PRESIDENT: Only A has been distributed.

20 MR. BLAKENEY: I shall read then from A
21 while the others are being distributed. On page 2,
22 Article I:

23 "The Government of Japan shall, in accordance
24 with the stipulations of the Supplementary Agreements
25 to the present Treaty, abolish the right of

1 extraterritoriality at present enjoyed in Manchoukuo
2 by Japan.

3 "Article II. The Government of Japan shall,
4 in accordance with the stipulations of the Supplementary
5 Agreements to the present treaty, transfer to the
6 Government of Manchoukuo the administrative rights over
7 the South Manchuria Railway Zone.

8 "Article III. Subject to the stipulations
9 of the Supplementary Agreements to the present
10 Treaty, Japanese subjects shall be governed within
11 the territories of Manchoukuo by the provisions of
12 the laws and ordinances of that country.

13 "With regard to the application of the stipu-
14 lations of the preceding paragraph, Japanese subjects
15 shall not, under any circumstances, be accorded less
16 favourable treatment than that which is or may be
17 accorded to the nationals of Manchoukuo.

18 "The stipulations of the preceding two para-
19 graphs shall, in so far as they are applicable to
20 juristic persons, apply to Japanese juristic persons."

21 I now wish to read from exhibit 2476B, page 1
22 thereof, Articles I and II, being Chapter I, Juris-
23 diction:

24 "Article I. The system of Consular Courts
25 existing for Japanese subjects in Manchoukuo shall,

1 simultaneously with the coming into force of the Treaty,
2 cease to be in force, and thereafter Japanese subjects
3 shall come within the jurisdiction of the Law Courts
4 of Manchoukuo.

5 "Article II. The Government of Manchoukuo
6 engage to guarantee to the lives and property of
7 Japanese subjects such judicial protection as conforms
8 to international law and the general principles of
9 law."

10 And, lastly, from page 4, Article XII,
11 being part of Chapter III, Police and Other Adminis-
12 tration:

13 "Article XII. Within the territories of
14 Manchoukuo, the Government of Japan shall, simul-
15 taneously with the coming into force of the Treaty,
16 cease to exercise police and other administration in
17 respect of Japanese subjects, and thereafter they shall
18 come within the jurisdiction of Manchoukuo in regard
19 to such administration.

20 "The Government of Manchoukuo engage, in
21 exercising police and other administration in respect
22 of Japanese subjects, to afford all possible guarantees
23 for the protection of their lives and property."

24 That concludes the Manchuria phase.

25 I now present Mr. Lazarus who, as the chairman

1 simultaneously with the coming into force of the Treaty,
2 cease to be in force, and thereafter Japanese subjects
3 shall come within the jurisdiction of the Law Courts
4 of Manchoukuo.

5 "Article II. The Government of Manchoukuo
6 engage to guarantee to the lives and property of
7 Japanese subjects such judicial protection as conforms
8 to international law and the general principles of
9 law."

10 And, lastly, from page 4, Article XII,
11 being part of Chapter III, Police and Other Adminis-
12 tration:

13 "Article XII. Within the territories of
14 Manchoukuo, the Government of Japan shall, simul-
15 taneously with the coming into force of the Treaty,
16 cease to exercise police and other administration in
17 respect of Japanese subjects, and thereafter they shall
18 come within the jurisdiction of Manchoukuo in regard
19 to such administration.

20 "The Government of Manchoukuo engage, in
21 exercising police and other administration in respect
22 of Japanese subjects, to afford all possible guarantees
23 for the protection of their lives and property."

24 That concludes the Manchuria phase.

25 I now present Mr. Lazarus who, as the chairman

1 of the China Phase will present the opening statement
2 thereof.

3 THE PRESIDENT: Mr. Lazarus.

4 MR. LAZARUS: Mr. President, there have been
5 some last minute minor revisions in the opening state-
6 ment and those corrections have been given to the
7 Language Section so as I read with those revisions the
8 correct translation is being given over the IBM, sir,
9 and no time will be wasted.

10 THE PRESIDENT: Mr. Tavenner.

11 MR. TAVENNER: If the Tribunal please, the
12 prosecution desires to object to two sentences, the
13 last two sentences appearing in the last paragraph
14 on page 8. The first sentence, beginning, "One look
15 at the map," relates to irrelevant and immaterial
16 matters which have been rejected by the Tribunal
17 in a number of instances, such as the relations
18 between the British and Iran, the United States and
19 Denmark, and so forth. Besides it refers to matters
20 that occurred or are alleged to have occurred since
21 the period of this indictment.

22 The second sentence immediately follows and
23 is a statement alleged to have been made by a states-
24 man in comparatively recent months, and for the same
25 reason would be inadmissible.

1 As these are matters which we contend are
2 inadmissible, we felt objection should be made to
3 reference to them in an opening statement.

4 THE PRESIDENT: By a majority, the Court
5 upholds the objection and rejects the part objected
6 to

7 MR. LAZARUS: Mr. President, doesn't the
8 defense have a right to answer the objection before
9 a decision is made?

10 THE PRESIDENT: There was a very long interval
11 between Mr. Tavenner's last word and your first word.
12 I assumed you did not intend to offer any argument.
13 If you did intend to offer one, I am very sorry, but
14 I presumed you did not intend to offer one because of
15 the long pause. Did the lights prevent you from say-
16 ing anything?

17 MR. LAZARUS: Your head was turned, sir,
18 toward one of your colleagues and I respected your
19 preoccupation, sir. That is why I waited.

20 THE PRESIDENT: My head is so often turned
21 to one or another colleague that you should never
22 hesitate on that account. I respect your good inten-
23 tion.

24 MR. LAZARUS: Thank you, sir.

25 THE PRESIDENT: We will hear your argument.

1 MR. LAZARUS: Mr. Tavenner stated, if the
2 Tribunal please, that many of these actions that are
3 referred to in the sentence, "One look at the map today
4 will show what has happened to Russia's neighbors and
5 former neighbors both in Europe and in Asia," has
6 taken place since the Indictment. That is incorrect.
7 The war on Finland, the dismemberment of Poland in
8 conjunction with an agreement with Hitler, the
9 disappearance of Lithuania, Latvia and Esthonia all
10 took place from 1938, 1939 and 1940. All these
11 actions on the part of Russia during the time that
12 these actions are alleged to have taken place in the
13 Indictment are reasons why Japan refused to enter
14 into a non-aggression pact with Russia. If the entire
15 subdivision on Subdivision 2, the Communist Movement
16 in China, were to be read then you would see that
17 joined in there these are very relevant, these two
18 sentences that are objected to. Many actions taken
19 in China by the accused are explained by their fear,
20 their reasonable fear and proper fear, of the spread
21 of world communism. We will introduce statements
22 showing that these people were motivated by that fear;
23 they put it down in the record, their official govern-
24 ment statements to that effect that will be introduced
25 into evidence.

1 THE PRESIDENT: Mr. Tavenner has not objected
2 to the particular sentence to which you are now referring.

3 MR. LAZARUS: I thought Mr. Tavenner said
4 they objected to the sentence: "One look at the map
5 today will show what happened to Russia's neighbors,"
6 and the one about President Truman's address to
7 Congress last month, sir.

8 THE PRESIDENT: Japan was not concerned about
9 what happened to Russia's neighbors on the other
10 side; she was concerned about what happened to Russia's
11 neighbors on this. This sentence is not objected to:
12 "It will be shown that Japan had reason to fear, and
13 in fact did fear, the spread of Communism in China,
14 and then in Japan itself meant Japan's destruction."

15 MR. LAZARUS: Mr. Tavenner informs me that
16 he did not object to that, sir.

17 MR. TAVENNER: If your Honor please, my
18 statement to counsel was that I objected to the last
19 two sentences.

20 MR. LAZARUS: Just one more word, please, sir.
21 President Truman we feel has said exactly what these
22 people have been saying all along, and we want to
23 introduce President Truman's address as justification,
24 even at this late date, for what they themselves fore-
25 saw beginning in 1937 when the China Incident broke out.

1 THE PRESIDENT: As American counsel, do not
2 take advantage of the great tolerance displayed by
3 this Allied Court to indulge in what might be termed
4 enemy propaganda.

5 We will recess for fifteen minutes.

6 (Whereupon at 1045, a recess was
7 taken until 1100, after which the proceedings
8 were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Lazarus.

4 MR. LAZARUS: Mr. President, the defense
5 is at a loss as to how to interpret the President's
6 closing remark just before the recess, so we must
7 state that we never expected that evidence of the
8 remarks by the President of the United States to the
9 Congress of the United States would be called enemy
10 propaganda.

11 THE PRESIDENT: Nor was it so called. That
12 is utter nonsense you are putting to us now.

13 MR. LAZARUS: Then, Mr. President --

14 THE PRESIDENT: You persisted in using the
15 President's remarks as an attack on an Allied Power
16 here in relation to the issues before us, which is
17 another thing. Mr. Tavenner carefully refrained
18 from reading out those parts until we had decided
19 upon them, but you were determined to read them out
20 whether relevant or not.

21 We have permitted you to attack the great
22 United States of America where your attack was rele-
23 vant and bore on the issues; we did not stop you.
24 We have allowed you to attack Britain where it was
25 relevant to do so. But you appear to take a sheer

1 delight in insulting Allied countries. That is how
2 it appears to me at all events, and I am not going
3 to take back a thing I have said about this attitude
4 of yours. To show our tolerance here in this very
5 matter, we have not taken any objection, expressed
6 any resentment, when you have cast reflection upon
7 the Russians simply because it bears on an issue
8 before us.

9 Through it all I remain a British judge,
10 an Australian judge, and I will never be anything else.
11 And I will not stand for gratuitous insults to my
12 country or any other country represented in this
13 Court. I have no higher loyalty than that to my
14 own country. If American counsel think they have
15 a higher loyalty than their loyalty to their own
16 country, they are at liberty to indulge it.

17 MR. LAZARUS: Mr. President, you said that
18 we attacked the United States and that we attacked
19 Great Britian. That is not correct. All we did,
20 sir, was introduce relevant evidence as it appeared.
21 That is not attacking our own country.

22 As for taking delight, sir, in abusing
23 Russia, as you seem to think, I want to assure you
24 that I have the most cordial relations, outside of
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1 this courtroom, with General Vasiliev and General
2 Smirnov. There is no such thing in my mind. I
3 never forget that we fought on the same side and
4 that it may be due to the fact that some Russian
5 officers and soldiers fought as hard as they did
6 that I, today, am **alive** to appear in this court-
7 room; I never forget that.

8 You must remember, please, sir, that much
9 of this might be distasteful to us personally; but,
10 as attorneys appointed by the United States at the
11 request of this Tribunal to help defend these
12 people, we have a high duty: We must present all
13 the evidence available. Please understand that,
14 sir.

15 THE PRESIDENT: You had no need to pro-
16 claim to the world the evidence objected to. Mr.
17 Tavenner didn't. You knew we were reading it as
18 you addressed us. You insisted on calling it out.
19 It looked bad.

20 MR. LAZARUS: May I point out, Mr. Presi-
21 dent, that at the time there was a misunderstanding
22 between bench and bar as to what sentences had been
23 objected to by Mr. Tavenner, and I was trying to
24 straighten it out. I assure you, I had no intention,
25 not the slightest intention, to violate the rules

1 of the Court or to make it look bad.

2 THE PRESIDENT: We accept your explanation,
3 and the incident is closed.

4 MR. LAZARUS: Shall I begin reading, sir?

5 THE PRESIDENT: Yes.

6 MR. LAZARUS: Thank you.

7 THE PRESIDENT: You understand that I have
8 still to rule on this matter.

9 MR. LAZARUS: I await the Tribunal's ruling
10 then, sir.

11 THE PRESIDENT: The ruling is the same as
12 that already announced. The objection is upheld
13 and the document rejected to that extent. Two
14 sentences objected to on page 8 will not be read.
15 That part is not to be read. "One look at the map"
16 down to and including the words "stop its spread"
17 on page 9.
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1 MR. LAZARUS: The China phase will be in six
2 subdivisions, and we will here set out the evidence
3 to be adduced in each of these subdivisions. The
4 counts involved are 1 to 6, 18, 19, 27, 28, 44 to 50,
5 53 to 55.

6 Subdivision I - THE MARCO POLO BRIDGE INCIDENT
7 AND JAPAN'S POLICY OF LOCALIZATION.

8 On 7 July 1937 at 11:40 p.m. near Liukouchiao
9 at a point commonly known as the Marco Polo Bridge, a
10 Japanese force maneuvering there was fired upon by the
11 Chinese army and the local Chinese authorities tried
12 to settle the matter promptly and locally.

13 THE PRESIDENT: Some words were omitted from
14 the copy. That may be the correction you referred to,
15 Mr. Lazarus.

16 MR. LAZARUS: They are very minor, sir, very
17 few.

18 Japan's stationing of troops in North China
19 is based on Article 9 of the Joint Note concerning the
20 North China Incident of 1900 and Article 9 of the ~~Boxer~~
21 Protocol. The right of the Japanese army to engage
22 in such maneuvers is recognized in the exchange of
23 notes between Japan and China over the retrocession
24 of Tientsin in 1902. It states as follows:

25 "They will have the right of carrying on field

1 exercises and rifle practice, etc., without informing
2 the Chinese authorities except in the case of feux de
3 guerre."

4 On that particular night the Japanese Army
5 was exercising in preparation for inspection and had
6 no bullets but was using only blanks. Evidence will
7 be adduced on this point. There was, therefore, no
8 breach of any agreements on the part of the Japanese
9 Army in engaging in such maneuvers. There is much
10 evidence to prove that this incident was entirely un-
11 expected by the Japanese troops. It will be proved
12 by competent evidence that:

13 (a) At the time of the incident most of the
14 Japanese forces stationed in Peiping had gone to
15 Tungchow to prepare for inspection;

16 (b) The second infantry regiment which had
17 been stationed in Tientsin had gone to Shanhaikwan
18 for inspection;

19 (c) Lieutenant General TASHIRO, commander
20 of the garrison in North China was so ill that he
21 could not command his forces. He died shortly there-
22 after;

23 (d) The commander of the infantry brigade,
24 Major General KAWABE, Shozo, was away from his post
25 in Peiping and was in Shanhaikwan with his troops to

1 inspect the second regiment there;

2 (e) In Tientsin, the base of the Japanese
3 garrison force, there was no supply of arms and am-
4 munition.

5 On the other hand, the Chinese army had
6 taken up its position on the banks of the Yunting
7 River and approximately one battalion had advanced
8 to that line. On 8 July 1937 when the General Staff
9 in Japan was informed of the incident it promptly de-
10 cided to localize the incident and to settle it on
11 the spot as quickly as possible. This continued to
12 be the attitude of Japan towards the incident for a
13 considerable period of time.

14 At forty-two minutes past six that evening
15 the Chief of the Japanese General Staff sent a tele-
16 gram to the commander of the Japanese forces in China,
17 forbidding the use of further military force in order
18 to help localize the incident. On the 9th of July the
19 Vice-Chief of the General Staff, General Imai, wired
20 the Chief of Staff of the Japanese force in North China
21 urging settlement of the incident on the following terms:

22 (a) The Chinese force responsible for the in-
23 cident should be withdrawn to the left bank of the
24 Yungting River;

25 (b) Future security be assured;

1 (c) The persons directly responsible for the
2 incident be punished.

3 In accordance with the orders of the General
4 Staff, representatives of the Japanese garrison met
5 with the representatives of the Chinese army and it
6 will be shown that on 11 July an agreement was reached
7 embodying the above terms, thus acknowledging that
8 the responsibility for the incident lay with the
9 Chinese. It will be proven that on the 18th of July
10 General Sung Cheh-yuan, commander of the Hopei Chahar
11 political council, who was responsible for the 29th
12 Division, came to Tientsin and officially acknowledged
13 the agreement of the 11th. This would have ended the
14 entire matter, but on 25 July the Langfan incident
15 took place. It will be shown that the telegraphic
16 wire had been cut between Peiping and Tientsin. The
17 Japanese Army, with the consent of the Chinese Army
18 made the necessary repairs at the break which was found
19 to be approximately 50 kilometers southeast of Peiping.
20 After the Japanese had repaired the break they were
21 fired upon by members of the Chinese Army. Then on
22 26 July there occurred what is known as the Kuang-an
23 Gate incident. With previous notice to, and the con-
24 sent of the Chinese Army, the Japanese Army sent troops
25 to Peiping to protect the Japanese citizens there.

1 When a part of the Japanese force had entered the
2 city the Chinese suddenly closed the gate, separating
3 those troops from the remaining Japanese body. Both
4 groups were then fired upon by the Chinese. This in-
5 cident will be testified to by a witness who took
6 part in this action. By this time the Chinese Army
7 was heavily concentrated in North China and had com-
8 pletely surrounded the Japanese forces in Fengtai.
9 It will be shown that on 27 July the Japanese garrison
10 stated that it had exhausted every means of settling
11 matters peacefully and there was now left to it no
12 alternative other than to fight. In Tokyo on the same
13 day the Chief Secretary of the Cabinet issued a similar
14 statement. In these statements it was made clear that
15 Japan was fighting only against the Chinese Army and
16 not with the Chinese people. The statements further
17 pointed out that it was the intention of the Japanese
18 Army to restore peace and order as quickly as possible,
19 to respect the interests of third nations, and to pro-
20 tect the lives and property of their people. It was
21 unequivocally stated that Japan had no territorial
22 ambitions in North China.

23 Up to this point the activities of the Japanese
24 had been limited to Peiping and surrounding territory
25 only. On 29 July the Tungchow incident involving the

1 massacre of 200 Japanese residents by the Chinese
2 Peace Preservation Corps took place. Evidence will
3 show that on that same day Japanese forces in Tangku
4 and Tientsin were attacked. This forced extension of
5 the incident to these areas. During the entire month
6 of July there was no change whatsoever in the Japanese
7 desire and attempts to localize the incident. It was
8 the Chinese who repeatedly violated the agreement of
9 11 July and all Japanese military, it will be proven,
10 was in the nature of self-defense only in every one
11 of the enumerated incidents.

12 It will be shown that on 10 July units of
13 the Chinese air force and four divisions of troops
14 were sent to the northern boundary of Honan Province.
15 On the 12th the armies of Shansi, Honan, Hupeh, Anwei,
16 and Kiangsu Provinces were massed on the Lunghai
17 Railway and Peiping-Hankow Railway lines. Chinese
18 troops continued to pour northward and in August the
19 Chinese Central Army was in a position to besiege the
20 Japanese garrison in North China. Evidence will be
21 introduced to show that on 15 August Chiang Kai-shek
22 ordered general mobilization and established General
23 Headquarters, he himself became Commander-in-Chief
24 of the army, navy and air force of China and the
25 country was divided into four military districts.

1 China was now fully prepared to wage war. By the end
2 of August approximately four hundred thousand Chinese
3 troops were massed in Hopei Province. By these
4 actions China had expanded a series of local incidents
5 into an armed conflict tantamount to war on a large
6 scale.

7 It will next be shown that on 31 August Japan
8 decided to send three divisions to China.

9 The Japanese Army was left no alternative
10 but to prepare to meet the situation. It was not until
11 20 November that Japanese General Headquarters was es-
12 tablished. It will thus be shown, when the above
13 evidence has been introduced, that Japan did not attack
14 China and did not violate any of the treaties as
15 charged by the prosecution.

16 As the evidence offered by the defense will
17 show, the China incident was generated by an unexpected
18 local incident, and in spite of Japan's consistent at-
19 tempts to localize it, it expanded finally into large
20 scale hostilities. We will prove that the autonomous
21 movement which began and which was promoted in North
22 China some time before the Marco Polo Bridge Incident,
23 had nothing to do with the China Incident. There was
24 no connection between them.

25 After the making of the Tangku Agreement

1 in May 1933 it was the National Government of China
2 itself which established the North China Political
3 Committee governing the five districts of Hopei,
4 Chahar, Shantung, Shansi, Suiyuan, and the two cities
5 of Peiping and Tientsin on 17th June of the same year.
6 It appointed Huang Fu head of the committee. Policy
7 in North China was decided by this organ.

8 Later Yin Ju-ken was appointed Special Di-
9 rector of Administration of twenty-three counties
10 in unarmed district of Eastern Hopei on the recom-
11 mendation of Huang Fu, the Chief of the North China
12 Political Committee. It will be shown that in 1935
13 the autonomous movement of the farmers gained momentum,
14 and in November of the same year the Eastern Hopei
15 Anti-Communist Autonomous Committee was established
16 with Yin-Ju-ken as its chief. Though this was strictly
17 a local Chinese affair, the Chinese Government seized
18 upon it and used it for anti-Japanese propaganda,
19 thereby aggravating the situation. It will be shown
20 that General Sung Cze-yuan resigned his post as Chief
21 of Chahar district and as Commanded of 29th Army, but
22 was shortly thereafter appointed Commander of Peiping-
23 Tientsin Garrison. At the end of November 1935 he
24 demanded self-government for North China. On the 11th
25 of December in the same year the Administrative Council

1 of the National Government of the Chinese Republic
2 accepted the demand, and on the 15th of that month
3 the Hopei-Chahar Political Committee was established
4 to govern the districts of Hopei and Chahar and the
5 cities of Peiping and Tientsin, with Sung Che-Yuan
6 as the chief of the committee. This too was purely
7 an internal affair of China. To all appearances this
8 committee was authorized to handle only military,
9 foreign, financial, communications and personnel
10 problems. But, in reality, it constantly kept in
11 close touch with the National Government, most of
12 the committee being men of importance in the National
13 Government. Evidence will show that Sung Che-Yuan's
14 advance into North China was accompanied by the ad-
15 vance of Communist elements. Among Sung's followers
16 there were many Communists who espoused the anti-
17 Japanese and Communist movement, although Sung him-
18 self was pro-Japanese. (This subdivision will be
19 presented by Messrs. Miyata and Ohara and Mr. Levin.)
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Subdivision II - ACTIVITIES OF CHINESE COMMUNISTS
AND THE ANTI-JAPANESE MOVEMENT

As our evidence will show, it was the Communist movement in China that created the anti-Japanese movement. In September 1920 a meeting for the organization of the Chinese Communist party was held in Shanghai under the direction of Voichinsky, chief of the Far East division of the Comintern. In May 1921 the party came to be formally organized. From 1924 to 1927 there was cooperation between the Communist Party and the Nationalist Party (Kuomintang). Thereafter a schism developed and the two parties, now in fact two states in China, started making war on each other. The Communist Party in China took the lead in the general anti-foreign movement and further developed the anti-Japanese movement, expanding it to such a degree that it finally took the form of unlawful belligerent action. It will be shown that at the Seventh General Meeting in 1935, the Comintern expounded its doctrines of national unity, the popular front, anti-fascism, condemnation of imperialism, and called for war against Japan. Immediately, on the first of August of the same year, the Communist Party in China made what is known as the 8.1 Declaration-- to wage war with Japan, and it actually began

1 preparations for war. This declaration, it will be
2 proven, had an important connection with the develop-
3 ment of the incidents in Asia.

4 In December of the following year, the
5 Chinese Communist Party made what is called its
6 December Decision in which it set up the organization
7 of anti-Japanese allied forces and the establishment
8 of a defense government in anticipation of the anti-
9 Japanese war. In December of 1936, the Sian Incident
10 took place. This was the kidnapping of Chiang Kai-shek.
11 One of the terms of his release was his promise to
12 cease fighting the Communists and instead, to make
13 war on Japan. Evidence will show that since the Sian
14 Incident three important changes took place in the
15 character of the anti-Japanese movement in China.

16 The first was the adoption of anti-Japanism
17 as an instrument of Chinese policy. The second, the
18 use of military power to support this movement. The
19 third was the further development of the Communist
20 movement. It will be shown that General Chiang
21 Kai-shek had to consent to reconciliation with the
22 Communists and to war with Japan in order to be
23 released from captivity at Sian. It will be shown that
24 this cooperation policy, as was openly stated by the
25 Communist army, was but an expedient for the expansion

1 of the anti-Japanese front. Now that the Communist
2 movement no longer had to undergo the opposition of
3 the National Government, its activity became un-
4 restricted and anti-Japanese propaganda became more
5 intensified. Into this propaganda, Communist prin-
6 ciples were woven. The development of this movement
7 threatened the safety of Japan as the Chinese Communist
8 Party was the armed vanguard of the world Communist
9 movement which, it will be shown, had, at the Seventh
10 Congress of the Third International in 1935, declared
11 Japan its natural enemy.

12 The evidence will trace and will show that
13 the declaration by this convention in 1935, the kid-
14 napping of Chiang Kai-shek in 1936 and the Marco Polo
15 Bridge Incident in 1937 were closely related and were
16 natural steps in a deeply laid conspiracy to drag
17 Japan into war with China. Statements of high-ranking
18 officials of China will be introduced to show that
19 it was considered that only a major war with another
20 country could unify China and stop its civil wars.
21 All this evidence will show that the planning and
22 initiating of the Sino-Japanese conflict lay not with
23 Japan, but elsewhere.

24 The evidence will show that the Communist
25 Party on 8 July, the day after the Lukouchiao Incident,

1 sent a telegram stating it would wage war on Japan
2 in collaboration with the National Government forces.
3 Again, as the evidence will show, there was a close
4 connection among the Chinese Communist Party, Soviet
5 Russian Communist Party, and the former Comintern.
6 As already stated, the Chinese Communist Party was
7 constituted under the direction of the Comintern and
8 was in such an organic relation as to be directed by
9 the latter. The nature and scope of these directions
10 will be revealed by evidence.

11 It will be shown that Japan had reason to
12 fear, and in fact did fear, that the spread of
13 Communism in China, and then in Japan itself meant
14 Japan's destruction.

15 This subdivision will be presented by Messrs.
16 OHARA and ITO and Mr. Cunningham.

17 Subdivision III - EXTENSION OF THE INCIDENT TO CENTRAL
18 CHINA

19 The Shanghai Incident was entirely separate
20 from that of North China. In 1932 the Shanghai truce
21 was concluded. As evidence will show, at about the
22 time of the North China incident, China was constructing
23 fortifications within the demilitarized zone in viola-
24 tion of the above truce.

25 It will be shown that, to encourage

1 international intervention, an incident took place
2 in the international city. On August 9th, Lieutenant
3 OYAMA, chief of the company of the Japanese marines,
4 and his chauffeur were shot to death. China had been
5 openly concentrating her troops in the neighborhood
6 of Shanghai, and by August 12th, the number amounted
7 to 50,000. The Japanese marines in charge of protect-
8 ing Japanese residents there numbered only 4,000 and
9 on August 13th both forces clashed. Thereupon the
10 Japanese government and army headquarters decided to
11 send to Shanghai two divisions in order to ensure the
12 safety of the marines and to protect Japanese residents
13 there in the emergency.

14 When the expeditionary forces arrived at
15 Shanghai on 23d August, the already overwhelming
16 Chinese forces had been increased still further. The
17 Japanese government continued to adhere to its policy
18 of trying to localize the incident and it tried to
19 avoid a clash of arms but when the Chinese increased
20 their forces to between 300 and 400 thousand, it
21 finally became obvious that the incident could not be
22 terminated and three divisions were landed at Hangchow
23 on 5 November to stop the large Chinese force which
24 was advancing from Chekiang Province on Shanghai where
25 the Japanese garrison was too small to protect the

1 Japanese residents there.

2 This subdivision will be presented by
3 Mr. SOMIYA and Mr. Roberts.

4 Subdivision IV - OCCUPATION OF NANKING AND JAPANESE
5 ATTEMPTS TO BRING ABOUT PEACE

6 In November 1937 the Chinese forces fighting
7 Japanese landing forces at Hangchow retreated to the
8 west and the Japanese, fearing a counter-attack, pursued
9 them along the line of Soochow and Kashing, and then
10 along the line of Wusih and Huchow. In order to meet
11 the continued threat of a Chinese counterattack the
12 fighting front was gradually enlarged. Before the
13 fall of Nanking peace terms were proposed through the
14 German ambassador.

15 The chief points were: acknowledgement of
16 Manchoukuo, amelioration of conditions in North China
17 and Inner Mongolia, cooperation in preventing the
18 spread of Communism, cooperation in economic develop-
19 ment and indemnities. China delayed its reply, the
20 time limit of January 15, 1938 expired and with it
21 the chance of making peace. The Panay and Ladybird
22 incidents, it will be shown, were settled by apology
23 and compensation, and the incidents were considered
24 closed in accordance with then existing international
25 law and diplomatic practice.

1 With reference to counts 45 to 50 relative to
2 attacks on various cities of China, we will present
3 evidence pertaining to the Japanese army chain of
4 command, the orders given by commanders to troops
5 before the entry into a city, punishments meted out by
6 courts martial for offenses against civilians, the
7 exaggeration of stories of atrocities in some places,
8 the non-existence of atrocities in others, and atroc-
9 ities by Chinese which were charged to the Japanese.
10 Further, international law will be introduced on the
11 treatment of bandits, irregulars, guerrillas, and
12 others who cannot claim the status of soldiers and
13 whom international law pronounces outlaws and beyond
14 the protection accorded combatants. In any event,
15 we shall conclusively prove the nonculpability of the
16 accused as to such matters.

17 This subdivision will be presented by Messrs.
18 ITO, S. OKAMOTO, SOMIYA and HAYASHI, and Messrs. Mattice,
19 Cole, Blewett, Roberts and Harris.

20 Subdivision V - ATTACK ON HANKOW AND AFTER

21 It will be shown that from the Shanghai
22 incident onwards, it was Japan's policy to terminate
23 the incident as quickly as possible. That Japan had
24 no territorial ambitions in China will be shown by
25 the statement of Premier Prince KONOYE on 3 November

1 1938, and his declaration on 22 December 1938.

2 Conclusive evidence on this point is the treaty between
3 Japan and China in which Japan even surrendered the
4 extraterritorial rights she enjoyed under previous
5 treaties.

6 With reference to alleged economic aggression,
7 it will be shown that Japan did not monopolize the
8 Chinese economy, nor did she exclude third powers.
9 Japan invested money and developed the unexploited
10 resources of China to the mutual benefit of both
11 nations. The North China Development Company was
12 organized on 7 November 1938 with capital of 350,000,000
13 yen.

14 The next sentence is omitted.

15 It invested its capital in transportation,
16 port facilities, communications, electricity, mines
17 and salt. On the 7th of November 1938 the Central
18 China Development Company was established with capital
19 of 100,000,000 yen and it invested its capital in
20 railways, transportation, electricity, gas and mines
21 in Central China. Both companies contributed much to
22 the welfare of the Chinese.

23 It will be shown that the economic control
24 exercised by Japan was due to military necessity and
25 was no different from that engaged in by other

1 occupying powers during hostilities and recognized
2 by international law. These measures were taken
3 because it was necessary to protect Japanese business
4 establishments from violence and to maintain the
5 occupying forces. It will further be shown that when
6 military necessity no longer existed, economic control
7 was returned to the hands of the Chinese, even while
8 hostilities went on in other parts of the country.
9 Similarly, the exigencies of war, it will be shown,
10 sometimes required the placing of temporary restric-
11 tions on third powers.

12
13 With reference to opium, the prosecution has
14 alleged that its use was encouraged in order to weaken
15 China and to raise funds for Japan. It will be shown
16 that poppy growing had never ceased in China, that
17 vast taxes were collected from opium, that its use
18 had never been stamped out, as alleged. It will
19 further be shown that Japan advised the Chinese
20 government to introduce the system of opium control
21 successfully used in Japan, Korea and Formosa. This
22 entailed the licensing of known addicts and supplying
23 them through recognized channels. It will be shown
24 that the League of Nations approved control rather than
25 prohibition as the solution of China's opium problems.
Facts and figures will be produced to show the

1 efficacy of the system proposed by Japan and used
2 by her in her territories. In fact, what Japan
3 expected most from China was duplication of the
4 policy of gradual abatement which was already prac-
5 ticed in Formosa and which had won world-wide
6 approval. Absolute prohibition, it will be shown,
7 cannot be enforced. It was so arranged that habitual
8 opium smokers might openly get their minimum needs
9 by certificate. In this way, purchase was restricted
10 to those certificate holders and no other people
11 could secure opium. Thus, the use of opium could
12 be controlled. The evidence will show that the
13 profits accruing from the sale of opium all went
14 into the coffers of the new Chinese regime and none
15 of it ever went to the Japanese army or government
16 as alleged.

17 This subdivision will be presented by
18 Messrs. SHIOBARA, SAMMONJI and TAKANO, and Messrs.
19 Freeman and Williams.
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1 And the last subdivision, VI - THE NEW REGIME
2 IN CHINA.

3 Japan is charged with having set up one or
4 more separate governments in China under the control
5 of Japan and having made them the means of aggression.
6 It will be shown that in China, because of its vast-
7 ness and poverty and widely divergent regions, local
8 autonomous bodies often sprang up to maintain
9 peace and order when the central government was unable
10 to do so. The evidence will show that at the time of
11 the conflict between China and Japan, such autonomous
12 bodies came into existence, and, as the incident pro-
13 gressed, they grew, joined together, grew in size,
14 and supplanted the former government. As these bodies
15 served to maintain peace and order, Japan naturally
16 supported them in order to preserve stability in the
17 occupied areas. These were not puppet governments
18 as charged, but independent, as proved by the China-
19 Japan treaty previously alluded to. It will be shown
20 that the Chief of the Chinese Republic, Wang Chin-wei,
21 was no mere upstart, but had been vice-president of
22 the Chinese Republic and president of the Central
23 Committee of the Kuomintang under Chiang Kai-shek. He
24 had fought in the Nationalist Revolution beside Sun
25 Yat-sen and had helped to establish the Chinese

1 Republic. He was and always had been a leader in the
2 Chinese Government.

3 As the evidence will show, Wang Chin-wei
4 escaped from Cnangking and sought to conclude speedy
5 peace with Japan. It was natural that Japan, desiring
6 such peace with China, should support him. When he
7 established the National Government of China on
8 March 30, 1940, he used the Chinese national flag,
9 adopted the policy of anti-Communism and peace and re-
10 turned the capital to Nanking.

11 Japan recognized the Wang Chin-wei regime
12 as the legitimate government of China and as the best
13 means of effecting an early peace with China. Again
14 the treaty between Japan and China shows that the new
15 government was not considered as a puppet government.

16 The evidence will sustain the defense conten-
17 tion that the accused did not enter into any conspiracy,
18 did not plan and initiate a war of aggression against
19 China, did not use opium to debauch its people and
20 to raise funds for war, nor did they foist upon China
21 a puppet government by supporting Wang Chin-wei. In
22 short, that the accused are not chargeable with the
23 offenses set forth in the Indictment.

24 This subdivision will be presented by Messrs.
25 ~~SAMURJI~~ SAMURJI, YAMADA and HANAI, and Messrs. Furness and

1 Blewett.

2 Dr. KANZAKI, the Japanese chairman of the
3 Japanese counsel, will assist in all the subdivisions.

4 I now introduce to the Tribunal Mr. Michael
5 Levin who will present subdivision one of the China
6 phase.

7 THE PRESIDENT: Mr. Levin.

8 Mr. LEVIN: Mr. President, may it please the
9 Tribunal, as heretofore indicated by my colleague,
10 Mr. Lazarus, the first subdivision of the China phase
11 of the defense relates to what occurred on July 7, 1937,
12 at the Marco Polo Bridge, and the Japanese policy of
13 localization. The official position of the Japanese
14 Government in relation to this event is of great impor-
15 tance. As the nature of this evidence was referred to
16 only a few moments ago, it is believed no further
17 statement in relation thereto is necessary.

18 We offer in evidence defense document No.
19 1134, a statement of the time and place of events which
20 occurred, from the Lukouchiao Incident until the estab-
21 lishment of the General Headquarters. This is prepared
22 for the convenience of the court and counsel, and as a
23 reference as the evidence in relation thereto is of-
24 fered. I do not propose to read any portion of this
25

1 document.

2 THE PRESIDENT: Brigadier Nolan.

3 BRIGADIER NOLAN: May it please the Tribunal,
4 the prosecution objects to the introduction of this
5 document containing, as it does, statements of fact
6 which will have to be proven in evidence.

7 This document, your Honor, goes far beyond
8 a mere timetable of events and contains such state-
9 ments as: "The Chinese forces opened fire unlawfully."
10 Again, "The Chinese forces opened fire unlawfully";
11 "Chinese forces unlawfully opened fire." It is sub-
12 mitted that such statements as that have no proper p
13 place in what purports to be a timetable of events.

14 THE PRESIDENT: We will know what to dis-
15 regard as infringing on our province.

16 MR. LEVIN: That is exactly what I had in
17 mind.

18 THE PRESIDENT: The word "unlawfully," I
19 can assure you, will be disregarded by all Members
20 although that conclusion may finally be drawn. We
21 do not know. The objection is upheld to that extent,
22 Mr. Levin.

23 MR. LEVIN: That is satisfactory, Mr. President.

24 THE PRESIDENT: Admitted on the usual terms.

25 CLERK OF THE COURT: Defense document No. 1134

1 will receive exhibit No. 2477.

2 (Whereupon, the document above re-
3 ferred to was marked defense exhibit No. 2477
4 and received in evidence.)

5 MR. LEVIN: We now offer in evidence defense
6 document No. 985, which is an official statement of
7 the Japanese Government on the despatch of troops in
8 North China, published in Shuho No. 40.

9 THE PRESIDENT: Brigadier Nolan.

10 BRIGADIER NOLAN: May it please the Tribunal,
11 this document, being defense document 985, raises in
12 our submission a point of interest and of importance.

13 In the order of proof distributed by the
14 defense, in this division appear a large number of
15 documents consisting of press releases. These docu-
16 ments emanate either from the Board of Information or
17 from what are called Foreign Office spokesmen. The
18 documents themselves follow the same pattern, and all
19 serve the same purpose in that they are an attempt
20 to prove the desire of Japan for localization of inci-
21 dents; and (2) the unlawful attack by Chinese soldiers;
22 and (3) the action taken in self-defense by the Japanese
23 soldiers.

24 I am well aware of the fact, your Honor, that
25 the Charter provides for the admission into evidence

1 of documents which emanate from a department or agency
2 of government, provided always that such documents have
3 probative value. Now, these documents with which I am
4 presently dealing are what are known as, colloquially,
5 handouts to the press. They paint with a Japanese
6 brush a picture of events for consumption at home and
7 abroad. But whether they be propaganda or not, in our
8 submission they prove nothing, because, Your Honor,
9 what happened in China should be proven as a matter of
10 fact by competent evidence, and any statement by the
11 Board of Information or by a Foreign Office spokesman
12 as to what took place in China does not prove the fact
13 of what took place in China one way or another.

14 The prosecution submits that all of these
15 press releases should not be admitted into evidence
16 as they have no probative value in this case.

17 THE PRESIDENT: Mr. Levin.

18 MR. LEVIN: Mr. President, it will be noticed
19 from an examination of the certificate that this is
20 an official document of the Foreign Office. This
21 document sets forth the position of the Japanese Gov-
22 ernment on the despatch of troops in North China and
23 is based on information which they obtained from the
24 Japanese and Chinese sources. While it is quite true
25 that this is a statement of their position and that

1 it is not evidence in the sense that the actual facts
2 are presented to the Court; nevertheless this state-
3 ment will be integrated with the evidence which it is
4 proposed to introduce in evidence. It is a contemporary
5 statement made officially by the Japanese Government
6 shortly after the event occurred, and it seems to me
7 there can be no higher statement from any source than
8 a statement of that kind.

9 We have throughout the trial been given
10 "handouts" by the prosecution and we have lived on them
11 but haven't thrived on them, may it please the Tribunal.

12 It seems to us that the evidence in this par-
13 ticular document, and I am not now referring to others
14 because those must be considered when they are presented,
15 is of a highly probative value and should be admitted.

16 THE PRESIDENT: I am awaiting the votes of all
17 my colleagues. I may overlook one. I haven't done so
18 deliberately yet, but I may by accident do so.

19 By a majority the objection is upheld and the
20 document rejected.

21 We will adjourn until half past one.

22 (Whereupon, at 1200, a recess was taken.)
23
24
25

AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Mr. Levin.

MR. LEVIN: Mr. President, Members of the
Tribunal, we now offer in evidence defense document
985 which is an official statement of the Japanese
Government on the dispatch of troops in North China
published in Shuho No. 40.

THE PRESIDENT: We have not taken a vote
on that.

MR. LEVIN: That is the one that has been
rejected. I am sorry. I meant 984.

THE PRESIDENT: You are quite right. It
has been rejected.

MR. LEVIN: If I may correct myself, the
document that I had reference to is defense document
No. 984. This is a War Ministry report on the
dispatch of troops to North China and is a review
of the activities occurring at the Marco Polo Bridge
on July 7, 1937 and some of the subsequent events.

THE PRESIDENT: Brigadier Nolan.

BRIGADIER NOLAN: May it please the Tribunal,

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1 this is a press release compiled by the Information
2 Bureau and is objected to on the same ground as the
3 Tribunal saw fit to reject defense document 985.

4 MR. LEVIN: May it please the Tribunal,
5 I desire to state, and I would like to be heard rather
6 at length on this if it is necessary, because it is
7 our position that this document is not at all in
8 the same category with the previous document which
9 has been rejected by the Tribunal. I request
10 that the Members of the Tribunal examine each of
11 the paragraphs, which will indicate very clearly the
12 difference in the documents. Throughout the trial
13 the prosecution has presented statements by various
14 governments, and if I remember correctly, many
15 newspaper statements. This is not merely a newspaper
16 statement, but this is a recorded review -- an
17 official review of the occurrences on July 7, 1937
18 and the times indicated subsequent thereto. The
19 Tribunal has accepted statements from this very source
20 in connection with the presentation of the prose-
21 cution's case. And under those circumstances it seems
22 to us that these statements contained herein are of
23 great probative value.

24 I should like to call the Tribunal's attention
25 to the fact that early in the trial Colonel Morrow

1 in offering evidence in relation to the Chinese
2 casualties tendered a document, exhibit No. 252,
3 which was a letter from the Chinese prosecutor --
4 rather, a letter to the Chinese prosecutor and
5 submitted by him to Colonel Morrow and was accepted
6 by the Court as evidence of those casualties.
7 There has been presented in evidence here unilateral
8 statements, to the effect that the United States
9 does not desire to intervene, from the State Department,
10 unilateral statements that appeared in newspapers.
11 And here we have an official statement of the
12 events that occurred at and about that time.

13 THE PRESIDENT: Can you give us the exhibit
14 numbers of similar press releases by the Japanese
15 Government tendered by the prosecution?

16 MR. LEVIN: I cannot, Mr. President, offhand,
17 but my associate, Mr. Furness, says he thinks he
18 can find some; and if the Court desires, I can
19 proceed to another document.

20 THE PRESIDENT: You are putting this to us
21 as a statement of fact by the Army from their
22 viewpoint. As I am reminded, we have received
23 statements from the Japanese side as coming from
24 enemy sources and, therefore, admissible as evidence
25 against them; but evidence in their favor is in a

different category.

1
2 MR. LEVIN: It would seem to me, Mr.
3 President, that the documentation of facts in
4 relation to events that occurred at or about the
5 same time which was found in the official records
6 of the Japanese Government should be admissible in
7 evidence.

8 THE PRESIDENT: By a majority the ob-
9 jection is upheld and the document rejected.

10 MR. LEVIN: I now offer for identification
11 the book by the Right Honorable Sir Robert Craigie,
12 "Behind the Japanese Mask."

13 CLERK OF THE COURT: Defense document
14 No. 502, to wit, a book entitled "Behind the
15 Japanese Mask", will be given exhibit No. 2478
16 for identification only.

17 (Whereupon, the document above re-
18 ferred to was marked defense exhibit No. 2478
19 for identification.)

20 MR. LEVIN: I desire to offer in evidence
21 the excerpt therefrom, No. 9, the defense document
22 No. 502.

23 THE PRESIDENT: Brigadier Nolan.

24 BRIGADIER NOLAN: If the Tribunal please,
25 we object to this excerpt being offered in evidence.

1 Mr. President, because for the most part it only
2 expresses the opinion of the author as to the
3 control exercised by the Central Government in
4 China. The measure of the control exercised by
5 that Central Government is a matter for the
6 determination of the Tribunal.

7 MR. LEVIN: I submit, Mr. President,
8 that the statement is a statement of fact in the
9 category of the evidence of Goettig and Powell;
10 and he was the ambassador to Japan from Great
11 Britain.

12 THE PRESIDENT: Have you any answers
13 to interrogatories put to Sir Robert Craigie?
14 I understood that Major Furness put some interroga-
15 tories to Sir Robert Craigie.

16 MR. FURNESS: I am awaiting a Court order
17 for which I have applied before putting the inter-
18 rogatories to Sir Robert.

19 THE PRESIDENT: What order are you awaiting,
20 Major?

21 MR. FURNESS: I think it is in draft form
22 already, if the Court please. I have seen a draft
23 in the Clerk's office. I think it is being submitted
24 to Judge Dell. My interrogatories will deal with
25 matters other than the one covered in this excerpt.

1 MR. LEVIN: I submit, if the Tribunal
2 please, that the first sentence is a complete
3 statement of fact which any observer could have
4 made; while the second sentence isn't quite in
5 the same category, nevertheless it is largely
6 predicated on that study and examination.

7 THE PRESIDENT: By a majority the Court
8 upholds the objection and rejects the excerpt.

9 MR. LEVIN: I now call as a witness
10 KAWABE, Masakazu.

11 Mr. President, his biographical data
12 appears in the first two pages of defense document
13 823.

14 THE PRESIDENT: We cannot hear what you
15 are saying. The red light was not against you.
16 I don't know why.

17 MR. LEVIN: The witness' biographical data
18 appears in the first two pages of defense document
19 823, which is the original affidavit which it is
20 not intended to tender in evidence at present; and
21 for the purpose of saving time I should like per-
22 mission to read that portion of it.
23
24
25

KAWABE

(Whereupon, a document was handed
to the witness.)

On pages 1 and 2 of that document does your
personnel record appear?

A Yes, it does appear.

THE PRESIDENT: Admitted on the usual terms.

KAWABE

DIRECT

1 MR. LEVIN: I desire that defense document
2 No. 970 be admitted on the usual terms, as stated
3 by the President, and also the personnel record
4 that appears in defense document 823.

5 (Reading) "My career runs as follows" --

6 THE PRESIDENT: You had better call the
7 numbers, Clerk.

8 CLERK OF THE COURT: The first affidavit
9 is defense document 970. The second affidavit,
10 the first two pages of which it is desired to in-
11 troduce, is defense document 823.

12 MR. LEVIN: What will be the exhibit num-
13 bers?

14 CLERK OF THE COURT: One has not been ad-
15 mitted yet.

16 THE PRESIDENT: They are all admitted,
17 both of them.

18 CLERK OF THE COURT: Defense document 970
19 will receive exhibit No. 2479, and defense document
20 823 will receive exhibit No. 2479-A.

21 (Whereupon, the documents above refer-
22 red to were marked, respectively, defense exhibit.
23 2479 and defense exhibit 2479-A. and received in evidence.)

24 MR. LEVIN: Reading from exhibit 2479-A:

25 "My career runs as follows:

KAWABE

DIRECT

1 "1907 graduated from the Military Academy
2 "1915 graduated from the Military Staff
3 College.
4 "1936 major-general
5 "1936 commander of the Infantry Brigade
6 stationed in North China
7 "September 1937 vice-chief of the staff of the North
8 China Area Army
9 "February 1938 chief of the staff of the Central
10 China Expeditionary Forces
11 "January 1939 chief of the Department of the
12 Inspector-General of Military Education
13 "March 1940 commander of the 12th Division
14 "March 1941 commander of the 3rd Army
15 "August 1942 chief of the staff of China Expedi-
16 tionary Forces
17 "March 1943 commander of the Burma Area Army
18 "December 1944 commander of the Central Army
19 "March 1945 general
20 "April 1945 commander of "Hole Air Force."

21 THE PRESIDENT: Are these affidavits by
22 the same person? The surname is the same, but not
23 the other names.
24

25 BY MR. LEVIN:

Q The affidavit which you signed is 970.

KAWABE

DIRECT

1 Are you the same person who signed the affidavit
2 No. 823?

3 A Both of them are my affidavits.

4 THE PRESIDENT: Why two names?

5 THE WITNESS: The correct way of reading
6 my name is Mazakazu, but the Japanese characters
7 can also be read Shozo, and I am often called by
8 the name of Shozo.

9 THE PRESIDENT: Proceed.

10 MR. LEVIN: (Reading)

11 "To the questions asked by Messrs MIYATA
12 and Blakeney, Defense Counsel, at Tokyo, on November
13 2 in the 21st year of Showa (1946), I, KAWABE, Shozo,
14 replied as follows:

15 "Q Tell us about the term of your service at
16 Peking as Commander of the Infantry Brigade stationed
17 in China.

18 "A From April, 1936 (Showa 11) until August,
19 1937 (Showa 12).

20 "Q Tell us about the strength of the army
21 which you, as Brigade Commander, commanded at the
22 time, and how you stationed the troops.

23 "A I had two infantry regiments, the strength
24 being about 5,000. The headquarters of the 1st
25 Regiment of Infantry was at Peking. One battalion

KATANE

DIRECT

1 each was posted at Peking, Fengtai and Tienchin,
2 and one company was sent to Tungchow. The head-
3 quarters of the 2nd Regiment of Infantry was posted
4 at Tienchin, where two battalions were also stationed.
5 One battalion was posted at Shanhaikwan and along
6 the railway east of Tienchin. The headquarters of
7 the Brigade was at Peking.

8 "Q Where was the headquarters of the Army?
9 And in what manner were the technical corps posted?

10 "A The headquarters of the Army was at Tien-
11 chin, and cavalry, artillery, engineer and tank
12 corps were also posted there.

13 "Q Were there other military organs at Peking?

14 "A A Special Service Agency, military attaches
15 to the Embassy and a KEMPEITAI unit were at Peking,
16 and these three were all independent organs.

17 "Q Give an outline of the disposition of the
18 Chinese Army at the time of the Lukuochiao Incident.

19 "A In North China, the 29th Army under the
20 command of Sung Cheh-ye was stationed in the area,
21 including Tienchin, Peking, Paoting and Kalgan.
22 The headquarters of the Army was at Peking, and one
23 division each was stationed near Peking, Tienchin,
24 Kalgan and Paoting.

25 "In the neighborhood of Lukuochiao, about

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a battalion was stationed at Nanyuan, Peiyuan, Papa-
1 oshan and Hwapingchen. It seemed that at Lung-
2 wangmiao was posted a part of the battalion.

3 "Q Were the Japanese and Chinese armies on
4 good terms before the outbreak of the Incident?

5 "A The relations between the both armies were
6 very friendly until the fall of 1936 (Showa 11).
7 Both armies often inspected each other's maneuvers
8 and feats of arms so that the friendly relations
9 between both armies were promoted remarkably. But
10 on September 18, 1936 (Showa 11), a skirmish was
11 begun between Japanese and Chinese units when they
12 were marching near Fengtai and passed each other.
13 It was peaceably settled by the efforts of the staff
14 members of both armies. As the result, part of the
15 Chinese troops stationed at Fengtai were moved else-
16 where. This seemed to have left an unpleasant im-
17 pression on the part of the Chinese Army. And after
18 the Haian Incident, which took place in December
19 in the same year, the sentiment of the Chinese in
20 the vicinity of Peking generally became unfavorable
21 toward Japan, and the communists' secret maneuvers
22 became more active. Accordingly, it cannot be denied
23 that the Chinese troops were affected by the communist
24 movement. Although in the Chinese higher circles
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1 there was still seen a strong trend toward the
2 harmonious collaboration of Japan and China, among
3 the lower circles of the army it was observed there
4 was an anti-Japanese sentiment which was very keen.

5 "Q How were the relations between you and Mr.
6 Sung Chen-yuang and other Chinese staff members?

7 "A I was not especially intimate with Mr.
8 Sung Cheh-yuan except on the occasions of formal
9 exchange of courtesies. But I was very intimate
10 with Chang Tsu-chun, the Division Commander.
11 We often exchanged frank opinions about the friendly
12 relations of the two nations. Our opinions were
13 similar on some points.

14 "Q What sort of instructions were given to you
15 by the authorities as to the attitude of the Japan-
16 ese garrison forces toward China? And tell us how
17 you instructed your men in line with the instruc-
18 tions from the authorities.

19 "A It was the fundamental policy of the Army
20 to keep contact with the Chinese Army like a friend-
21 ly army and bring about better relations between
22 both armies. As a brigade commander, I always
23 kept this in mind and led my men to be on good terms
24 with the Chinese Army. When I went to the General
25 Staff to pay a visit of courtesy after I was appoin-

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1 ted Brigade Commander, Major General ISHIHARA,
2 Kanji, who was then Chief of Military Operations,
3 told me privately, clearly showing the intention
4 of the Central Authorities, "The Central Authorities
5 have no intention of fighting a war with China.
6 You will please keep this in mind in line of duty.'

7 "Q What were the duties of the Stationary
8 Force in China?

9 "A The protection of the official institutions
10 and the Japanese nationals in North China as well
11 as the defense of railway, traffic and communica-
12 tions.

13 "Q Tell us about the plans for military
14 operations of the Japanese garrison forces against
15 China.

16 "A I never received any instructions for mili-
17 tary operations against China.

18 "Q Please explain about the program of the
19 garrisoning.

20 "A In accordance with the duty, that is, the
21 order to defend railway, traffic, communication
22 and to protect Japanese diplomatic establishments
23 and Japanese residents, the Brigade, in peace time,
24 scattered its forces along the railway, Peking and
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1 Tientsin and the thus stationed forces took charge
2 of the garrisoning of their respective stations."

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1 "Q Please explain about the garrison near Peking.

2 "A Fengtai, Peking and Tungchow constituted three
3 stations respectively as one unit near Peking, which
4 were put under my command as the Peking garrison dis-
5 trict. In Fengtai the commander of the battalion, in
6 Peking the commander of the infantry regiment, and in
7 Tungchow the commander of the company, were ordered to
8 discharge their duties as the commanders of stationary
9 forces.

10 "Q Explain about the preparation for the opera-
11 tions against China which the Japanese garrison forces
12 in China made.

13 "A We did not think of fighting with China, so we
14 made no preparation for operations against China. Our
15 forces were the so-called garrison forces; therefore,
16 in organization we had no moving activity and in muni-
17 tions we had no stock for operations except those which
18 were continually supplied.

19 "Q Was the Brigade charged with duty regarding
20 secret information and the investigation of topography
21 necessary for the army?

22 "A We were not charged with any such duty.

23 "Q Were you given directions regarding where to
24 place the emphasis in the education and training of
25 the Japanese garrison forces in China?

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1 "A We were given directions about education, but
2 it meant the training which aimed at complete prepara-
3 tion and equipment of the forces and was not aimed at
4 the Chinese Army. This was applicable similarly in
5 the case of the forces in Japan. We had no idea of
6 fighting with the Chinese Army, so we did not think of
7 aiming at it.

8 "Q Explain about the disposition and the maneuver-
9 ing areas of the Japanese Army near Fengtai.

10 "A One battalion under the command of Major
11 ICHIKI was stationed in the Japanese barracks at Fengtai
12 with some infantry guns attached to it. To the north
13 of the barracks there stretched a narrow parade ground,
14 but near Fengtai there were many farms and no maneu-
15 vering areas. About three kilometres west of Fengtai,
16 there was the ballast-collecting place of the railway
17 which was not a farm but was a plain well adapted for
18 maneuvering. After negotiations with China, Japan was
19 granted temporary use of this plain, with Mt. Ichimonji
20 as its center and we were to use it as a maneuvering
21 area. In that district ballast was collected for the
22 Peiping-Mukden Railway.

23 "Q Where was the maneuvering area of the forces
24 in Peking?

25 "A Though there was a narrow common parade ground

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1 for the units of each nation to the east of Kuominkong
2 within the walls of Peking, the Japanese units in Peking
3 used to utilize the exercise grounds surrounding the
4 units of the Tungchow garrison as their area for field
5 exercises.

6 "Q Were they at liberty to use the maneuvering
7 area?

8 "A Yes, they were at liberty to use it. Hitherto,
9 in case of carrying out maneuvers, the Japanese units
10 had done it by their own choice without the necessity
11 of informing the Chinese authorities of it. However,
12 at the beginning of June, there was a friendly desire
13 from the Chinese, saying, 'As a night maneuver is apt
14 to excite the public, you will kindly inform us of it
15 in advance, by which, we would like to announce it to
16 the public previously so as to prevent any excitement.'
17 Understanding this, the Army made it a rule to make an
18 announcement in each case through a military intelligence
19 bureau.

20 "Q About the time when the incident broke out, did
21 they carry out exercises every night?

22 "A Yes. Almost every night after the end of June
23 they practiced exercises. The units practiced furious
24 exercises as it was just before the inspection of the
25 second term.

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1 "Q Were you in Peking on 7 July, the very day of
the incident?

2 "A I was not there. In order to attend to the
3 inspection of the Second Infantry Regiment which took
4 place, at that time, at the maneuvering area at Nantassu,
5 south of Shanhaikwan, I left Peking on 6 June.

6 "Q Who was the garrison commander while you were
7 absent?

8 "A The commander of the 1st Infantry Regiment,
9 Colonel MUDAGUCHI, acted for me.

10 "Q Were all the units in Peking at their per-
11 manent stations?

12 "A Leaving one company in the city, all the
13 Peking infantry regiments were in Tungchow for the
14 purpose of maneuvering. Therefore, only with one company
15 within the walls of Peiping and a battalion at Fengtai,
16 we had had little strength.

17 "Q How were you informed of the situation about
18 the outbreak of the incident when you were traveling?

19 "A Throughout the night of 7 July, there was the
20 inspection of exercises. About 3:00 A.M., on 8 July,
21 on the scene of the maneuvers, a slip of paper with
22 something written down as a telephonic report to me
23 from the commander of the Peking Regiment was brought
24 to me from the signal corps. The paper read, 'While a
25

1 company was practicing exercises at the maneuvering
2 area of Lukouchiao, we were fired upon by a Chinese
3 unit and one of our soldiers is missing. The ICHIKI
4 battalion has been shifted to the guarding formation
5 and is now searching for the missing soldier.' I did
6 not reply to it. When morning came, I made contact
7 with the Army Headquarters at Tientsin and determined
8 to return to Peking. As an airplane was fortunately
9 provided by the Army, I left Shanhaikwan at about noon,
10 and after changing to a train at Tientsin and arriving
11 at Fengtai, at about 3:00 P.M., I immediately hurried to
12 Lukouchiao.

13 "Q Did you visit the Army Headquarters when you
14 passed Tientsin?

15 "A The train schedule did not permit me to go,
16 but I established contact by telephone at the station
17 to the Chief of Staff, HASHIMOTO. The Chief of Staff
18 said, 'The policy of the Army is to achieve a solution
19 on the spot. You will watch the situation as it is at
20 present.' By this I was informed of the Army's policy
21 of localizing the affair.

22 "Q Did you suspend the inspection of the Second
23 Infantry Regiment at Nantassu?

24 "A I had ordered the regimental commander to con-
25 tinue the inspection.

KAWABE

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1 "Q Was the regimental commander there when you
2 reached Kukouchiao?

3 "A Yes. He was there, and reported the situation
4 in general to me as follows:

5 'After eleven o'clock last night, I received
6 the following report from the battalion commander,
7 ICHIKI, "A company carrying out exercises was fired
8 upon by a Chinese unit, and as a soldier is missing,
9 a search is now being made for him. The battalion is
10 now concentrating at Mt. Ichimoji in preparation for
11 any emergency." Then, I, the regimental commander,
12 ordered the battalion by telephone as follows: "You
13 will await further orders as you are now. It is expected
14 that the investigation parties will be despatched from
15 both Japanese and Chinese sides to the spot to inves-
16 tigate the situation on the spot."

17 'By the mediation of the Military Intelligence
18 Bureau, it was decided to make a common investigation
19 by sending committees from both Japanese and Chinese
20 sides. Then, with a regiment officer, Lt. Colonel
21 MORITA as the chairman, the committee was despatched
22 to the spot. The Chinese chairman was the chief of
23 the Yuanpin-hsien.
24

25 'About 2:00 A.M. there was a report from the
battalion commander that our units had been fired upon

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24

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1 by Chinese armed forces at the Yuenpin-hsien castle.
2 Furthermore, after 4:00 A.M., there was another report
3 that we had again been fired upon by the Chinese."

4 I said A.M., Mr. President, I presume it is
5 that. The copy here is not very clear.

6 THE PRESIDENT: A.M., yes.

7 "I, the regimental commander, gave the
8 following order, "It is an insult against the Japanese
9 that the Chinese had fired upon us again, despite the fact
10 that, as it had begun to get light, the Japanese could
11 be easily identified. If you should be fired upon
12 again in the future, your battalion will be free to
13 fight back." However, it was about 5:00 A.M. when
14 the party of the investigation committee arrived at the
15 spot by automobile and when chairman MORITA was in-
16 specting the spot, the ICHIKI battalion launched an
17 attack, was deployed and was just about to advance.
18 Thereupon, the Lt. Colonel rebuked the battalion comman-
19 der for the battalion's unlawfulness. When the battalion
20 commander replied that he had just received an order
21 from the regimental commander that the battalion was
22 free to accept the challenge, there was another volley
23 from the Chinese. So. Lt. Colonel MORITA told the
24 Chinese committee, "The unlawful firing of the Chinese
25 units is as you are now actually witnessing. I cannot

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1 disregard a battalion commander's determination to
2 accept the challenge. And the Lt. Colonel agreed to
3 the battalion commander's determination. Then after
4 5:00 A.M. the battalion attacked the Chinese at
5 Lungwengmiao.'

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1 "Q Then what did you, the brigade commander, do
2 upon receipt of that report?

3 "A I gave the following order to the units,
4 'Watch the Chinese under present situation. Do
5 nothing rash.' At the same time, I ordered that the
6 casualties be taken care of.

7 "Q There is talk that the encounter between the
8 Japanese and the Chinese units at Lukouchiao started
9 from and intrigue by a third party. What do you think
10 about this?

11 "A I cannot say distinctly about that, but after
12 the outbreak of the incident on 7 July, while the
13 Japanese and the Chinese were facing each other, there
14 frequently was unlawful firing every night. Every time
15 such unlawful firing took place, we investigated the
16 situation, but there was no sign that either the Japanese
17 or the Chinese unit had opened fire. It almost seemed
18 that a third party which did not belong to the Japanese
19 unit nor to the Chinese were firing from the intermedi-
20 ate area between the Japanese and the Chinese which
21 were facing each other. And we could assume that it
22 was an intrigue by someone.

23 "Q After 7 July, both units were facing each
24 other, while negotiations were in progress between the
25 Japanese and Chinese. Did any untoward incident break

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1 out during that time?

2 "A There were successive outbreaks of untoward
3 incidents, such as the unlawful firing at Mt. Ichimoji
4 on 21 July (company commander wounded), the Langfang
5 incident on 25 July, the Kannanmen incident on 26 July,
6 etc. The anti-Japanese sentiment of the lower class
7 Chinese officers and other ranks was most intense."

8 Signed.

9 You may cross-examine, if you desire.

10 THE PRESIDENT: Mr. Sutton.

11 MR. SUTTON: May it please the Tribunal.

12 CROSS-EXAMINATION

13 BY MR. SUTTON:

14 Q You stated that the relations between the
15 Chinese army and the Japanese forces in North China
16 was very friendly until the fall of 1936, is that
17 correct?

18 THE PRESIDENT: Mr. Sutton, don't ask him
19 to confirm anything in his affidavit.

20 A Yes, it is as you say.

21 THE PRESIDENT: It wouldn't matter if we
22 didn't have these translation difficulties. He said
23 yes, it was correct.

24 Q Did the friendly relations change after the
25 Fengtai Incident of 18 September 1936?

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1 A I heard that among the lower class officers
2 there was some dissatisfaction but there were no
3 incidents to back this up.

4 Q Did this Incident occur while Japanese troops
5 were on maneuvers near Fengtai?

6 A Yes, it is as you say.

7 Q In the settlement of this Incident were the
8 Japanese required to withdraw their troops from
9 Fengtai?

10 A Yes, they were forced to withdraw their
11 troops from Fengtai.

12 Q Then did the Japanese troops occupy Fengtai?

13 THE MONITOR: The witness' previous state-
14 ment should be just "Yes" and the rest should be
15 deleted.

16 A Fengtai had been used as a stationary place
17 for the Japanese before this time.

18 Q Were the Japanese troops in Fengtai re-
19 enforced after the Fengtai Incident?

20 A No, they were not reenforced.

21 Q I call your attention to one short paragraph
22 of the testimony of General Ching Teh-chun, deputy
23 commander of the 29th Army in North China, page 2316
24 of the record.

25 THE MONITOR: Mr. Sutton, what are you

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referring -- which document are you referring to, sir?

1 MR. SUTTON: IPS document 2340, exhibit 199,
2 page 2316 of the Court Record.

3 THE MONITOR: All right, Mr. Sutton. Will
4 you give us the approximate location of the passage
5 please?

6 MR. SUTTON: It begins near the bottom of
7 page 2316 following the word "Military." The first
8 sentence is: "In September 1936, the Fengtai Incident
9 occurred."

10 Q (Continuing) "In September 1936, the Fengtai
11 incident occurred. A company of Japanese soldiers
12 carried out maneuvers in Fengtai. They passed through
13 the garrison line of the Chinese Army. Clash ensued
14 when our patrols attempted to halt them. Although
15 it was immediately settled, the Japanese use this as
16 a pretext for reinforcement of their troops which
17 occupied Fengtai. It was a battalion, under the com-
18 mand of Major ICHINOGE, Kiyonao."

19 Are these facts correct?

20 A It is incorrect.

21 THE PRESIDENT: Cannot you paraphrase that
22 instead of reading it word for word?

23 Q How long had the Japanese forces been
24 stationed in Fengtai prior to 1936?
25

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11 incident occurred. A company of Japanese soldiers
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13 the garrison line of the Chinese Army. Clash ensued
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22 instead of reading it word for word?

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24 stationed in Fengtai prior to 1936?
25

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1 A From May of 1936 one infantry brigade was
2 stationed at Fengtai and this continued until the
3 outbreak of the Incident. By the Incident I mean the
4 Lukouchiao Incident.

5 THE INTERPRETER: One battalion was stationed.

6 Q Who was the commander of that battalion?

7 A Major ICHIKI was commander.

8 Q The protocol and agreements at the end of the
9 Boxer Rebellion gave the powers the right to occupy
10 certain points between the capital and the sea. Was
11 it under this authority that Fengtai was occupied?

12 A The question was not very clear to me. I
13 wish to have it repeated, the first part.

14 MR. LEVIN: Mr. President, there are two
15 objections to that question: One, in the first place,
16 he might not know, and, in the second place, even if
17 he did know it would be a matter of record and no
18 answer that he might make could put the facts in issue.
19 I therefor object to the question.

20 THE PRESIDENT: The answer may not help
21 very much but we cannot say that the question is in-
22 admissable. Answer the question if you understand it.
23 Do you still want it repeated?

24 THE WITNESS: I could not clearly hear the
25 Japanese translation so I would like to have it repeated.

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1 Q (Whereupon, the last question was read by
2 the Japanese court reporter.)

3 A Yes, it is as you say.

4 Q Don't you know that the protocol did not give
5 the Japanese the right to occupy Fengtai?

6 A I do not know that such an authority was not
7 granted.

8 Q I call your attention to exhibit 27 -- 247,
9 record 3314, an excerpt from the protocol and agreement
10 at the end of the Boxer troubles in 1900.

11 THE MONITOR: Mr. Sutton, please, was this
12 exhibit 2427?

13 MR. SUTTON: 247.

14 THE MONITOR: Are you going to refer to the
15 document, sir?

16 MR. SUTTON: I will read Article 9.

17 THE MONITOR: What is the PD number, sir?
18 We have to look for the document.

19 THE PRESIDENT: Is it worth asking questions
20 like this?

21 MR. SUTTON: It was just handed to the Language
22 Section, the Japanese copy.

23 THE MONITOR: We haven't located it, sir.

24 THE PRESIDENT: Is it worth asking these
25 questions, Mr. Sutton? Here is the document before

1 us. We know what provision is made. We don't want
2 his confirmation or denial of something which appears
3 before us and which is not questioned. There is such
4 a lot of time wasted to get nothing at all.

5 Q Since this was not one of the twelve points
6 which the Powers were entitled to occupy under
7 Article 9 of the Protocol, the Japanese had no right
8 to occupy Fengtai, is not that correct?

9 MR. LEVIN: Mr. President, I object to that
10 question. I think it is improper, in the nature of an
11 argument.

12 THE PRESIDENT: It is argumentative. It is
13 what is called matter of comment. It doesn't really
14 test credibility.

15 Q Was it the policy of Japanese troops in North
16 China to bring about better relations between the
17 Japanese and the Chinese?

18 A Yes, it is as you say.

19 Q You state in your affidavit, top of page 4
20 of the English copy, "Almost every night after the end
21 of June the units practised exercises. The units
22 practised furious exercises." Was this action inclined
23 to bring about better relations between the Japanese
24 and the Chinese?

25 THE PRESIDENT: Ask him what were these furious

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CROSS

1 exercises and we will judge of their effect.

2 Q What were these furious exercises?

3 A By furious exercises is to exert their greatest
4 efforts towards -- to train the army. By furious
5 exercises I mean training which will bring out the
6 maximum efforts in order to gain perfect training of
7 the army.

8 THE PRESIDENT: These are simple questions.
9 They should be readily understood.

10 Q You stated in your affidavit that after the
11 outbreak of the Incident firing, unlawful firing,
12 frequently took place by the intrigue of some third
13 parties, not members of the Japanese or Chinese armies.

14 THE MONITOR: Mr. President, it is almost
15 unbearable on the part of the interpreters to get the
16 sound through and we are having a very strenuous --
17 we are in a very strenuous position to try to get the
18 prosecutor's words, sir. We have a note from the
19 sound technician saying, "We have a short in our lines
20 so please try to make the best of the situation for
21 this session," sir.

22 THE PRESIDENT: We will recess for fifteen
23 minutes.

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25 (Whereupon, at 1445, a recess was taken
until 1505, after which the proceedings were
resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: The IBM was at fault. It
4 has since been corrected.

5 BY MR. SUTTON (Continued):

6 Q You stated that after July 7 there was
7 unlawful firing every night by persons not members
8 of the Chinese or Japanese forces. From the area
9 between these forces was report of that intrigue, as
10 you call it, made to the authorities in Tokyo?

11 A We have made the report on this matter to
12 the garrison headquarters in Tientsin.

13 MR. SUTTON: May it please the Tribunal,
14 since the other points in the affidavit, exhibit No.
15 2479, cover the same points as in another affidavit
16 which is on the present order of proof, to avoid
17 duplication of cross-examination we shall not cross-
18 examine on the other points in this affidavit.

19 That concludes the cross-examination.

20 THE PRESIDENT: If they knew it was a third
21 party that was doing it why did they attack the
22 Chinese?

23 BY MR. SUTTON (Continued):

24 Q What action, if any, was taken on the reports
25 which you made --

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1 THE MONITOR: Mr. Sutton, was that report
2 to Tokyo or to Tientsin?

3 MR. SUTTON: I haven't finished the question.

4 Q (Continuing) What action, if any, was
5 taken on the reports which you made concerning the
6 intrigue, that is, the firing by third parties from
7 between the two forces?

8 A In both reports we conveyed the following
9 effect to Tientsin -- the Tientsin army: When
10 firings were heard and sparks were seen in front
11 of the Japanese army we thought that it was -- the
12 firing came from the Chinese army. Therefore,
13 we wanted to ascertain whether the Chinese side
14 acted in violation of the truce agreement; and,
15 therefore, we requested the Special Service Organization
16 in Tientsin -- in Peking -- to make an investigation.
17 To that the Peking Special Service Organization
18 replied that as a result of their investigation they
19 could ascertain -- they have ascertained -- that the
20 Chinese side did not fire either. In the light of
21 the fact that it was neither the Japanese nor the
22 Chinese side that was responsible for the firing, I
23 concluded that it must have come from someone in the
24 area which did not belong either to the Japanese or
25 the Chinese side.

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1 happened while the negotiations were being continued
2 because I was on the spot myself -- in the front
3 lines.

4 Q How long did this -- over what period of
5 time did this firing between the lines continue?

6 A I remember that it lasted almost every
7 night for about four or five days beginning from about
8 the 9th of July.

9 THE PRESIDENT: How far apart were the lines?

10 THE WITNESS: About 4,000 meters.

11 THE PRESIDENT: What was the nature and
12 extent of the firing by the third party?

13 THE WITNESS: There were rifle shots. They
14 came from different directions depending upon the
15 location. They came at times from southern directions --
16 western directions -- and at times from northern
17 directions and they came continuously at times and
18 they came intermittently at other times.
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1 THE MONITOR: And that fact I reported
2 to Tientsin Headquarter.

3 Q Notwithstanding that report, did you continue
4 to return the fire toward the Japanese lines when
5 these irresponsible people fired in the area between
6 the two lines?

7 THE PRESIDENT: Substitute "Chinese lines"
8 for "Japanese lines" in the question.

9 A The Japanese side did not -- Japanese army
10 troops did not respond to that firing.

11 THE PRESIDENT: How did the war start?

12 THE WITNESS: That was happening -- That did
13 not happen at the time the hostilities broke out.

14 Shall I continue to explain?

15 THE PRESIDENT: Yes.

16 THE WITNESS: This firing took place while
17 the truce agreement was still in existence between
18 the Chinese and the Japanese side.

19 BY MR. SUTTON (Continued):

20 Q As a result of this firing which you said
21 took place between the lines were not the Chinese
22 charged with having violated the truce?

23 A I did not put that in my report.

24 Q Was that a fact?

25 A I do not know whether any such thing

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CROSS

1 happened while the negotiations were being continued
2 because I was on the spot myself -- in the front
3 lines.

4 Q How long did this -- over what period of
5 time did this firing between the lines continue?

6 A I remember that it lasted almost every
7 night for about four or five days beginning from about
8 the 9th of July.

9 THE PRESIDENT: How far apart were the lines?

10 THE WITNESS: About 4,000 meters.

11 THE PRESIDENT: What was the nature and
12 extent of the firing by the third party?

13 THE WITNESS: There were rifle shots. They
14 came from different directions depending upon the
15 location. They came at times from southern directions --
16 western directions -- and at times from northern
17 directions and they came continuously at times and
18 they came intermittently at other times.
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KAWABE

CROSS
REDIRECT

1 Q Were hostilities resumed on behalf of the
2 Japanese Army as a result of the firing which came
3 from between the lines?

4 A That is not so.

5 Q Did this firing continue up until the time
6 that hostilities were resumed?

7 A That did not last that long. We could hear
8 it very clearly about -- for about four days, as I
9 said before.

10 MR. SUTTON: No further cross-examination.

11 MR. KANZAKI: I should like to cross-examine
12 the witness -- reexamine the witness on one point. .
13 I am counsel KANZAKI.

14 REDIRECT EXAMINATION

15 BY MR. KANZAKI:

16 Q Is it not a fact that prior to the Japanese
17 stationing of troops at Fengtai, British troops had
18 been stationed there; were they not?

19 A I had heard that they had formerly been sta-
20 tioned there.

21 MR. KANZAKI: That is all, your Honor.

22 THE PRESIDENT: Mr. Levin.

23 MR. LEVIN: Mr. President, we next offer in
24 evidence defense document No. 1103, a statement --
25

THE PRESIDENT: Not yet.

1 MR. LEVIN: That's all. May the witness be
2 excused on the usual terms?

3 THE PRESIDENT: Not yet. I have a few ques-
4 tions to ask.

5 How did the Japanese succeed in getting a
6 garrison in Fengtai prior to the 18th September,
7 1936?

8 THE WITNESS: The stationing of the Japanese
9 troops in Fengtai was carried out in May, 1936 as a
10 result of negotiations conducted between -- conducted
11 at the time between North China Political Regime
12 existing there and the Japanese troops. And, as a
13 result of those negotiations, one battalion was to
14 be permitted to be stationed at Fengtai.

15 THE PRESIDENT: Mr. Levin.

16 MR. LEVIN: May the witness be excused on
17 the usual terms? It is possible, Mr. President, that
18 we might desire to use him again in another phase.
19 With that reservation, I ask that he be excused on
20 the usual terms.

21 THE PRESIDENT: He is excused accordingly.

22 (Whereupon, the witness was ex-
23 cused.)
24
25

- - -

1 MR. LEVIN: Next we offer in evidence de-
2 fense document No. 1103, which is a statement in re-
3 gard to the Kuang-An Men Incident in relation to the
4 authorities at Peiping deciding to reinforce the
5 Japanese forces stationed near there.

6 THE PRESIDENT: Brigadier Nolan.

7 BRIGADIER NOLAN: If it please the Tribunal,
8 we object to this document, your Honor, on the same
9 grounds as the objection made to defense document
10 985. It is a press release, and it is submitted that
11 it is subject to the same objections and ought to be
12 rejected.

13 MR. LEVIN: I believe, if the Tribunal please,
14 that there is a stronger reason for admitting this
15 document in evidence than the other. This sets forth
16 why the military authorities at Peiping took certain
17 actions. It is the record of the conduct and action,
18 official action, of the Japanese Government in rela-
19 tion to the incidents that occurred there. It is
20 not indicated here that this is a press release,
21 although I cannot state exactly what it is because
22 the only information I have is the certificate that
23 indicates that it is part of the archives of the
24 Japanese Foreign Office. But, even though that were
25 a fact, it seems to me that this document is clearly

1 admissible.

2 THE PRESIDENT: By a majority, the Court
3 upholds the objection and rejects the document.

4 MR. LEVIN: I now call the witness SAKURAI,
5 Tokutaro.

6 - - -

7 T O K U T A R O S A K U R A I, called as a witness
8 on behalf of the defense, being first duly sworn,
9 testified through Japanese interpreters as
10 follows:

11 DIRECT EXAMINATION

12 BY MR. LEVIN:

13 Q Please state your name, age and address.

14 A My name is Tokutaro SAKURAI, I am fifty-
15 one years old, and I reside at Sono-Machi, Miyazaki
16 Prefecture.

17 Q The Marshal will hand you defense document
18 No. 969. Would you please state whether your signa-
19 ture appears thereon?

20 (Whereupon, a document was handed
21 to the witness.)

22 A Yes.

23 Q Are the contents of said document true and
24 correct?
25

 A There is one place where the place name is

SAKURAI

DIRECT

1 mistaken, at the end of page 9 in the Japanese text --
2 original Japanese text. In "danka," the character
3 "ka," meaning "river," in the eighth page of the
4 Japanese text -- original text of the affidavit, has
5 been situated -- written as being situated to the
6 south of Nan yuan. It should read -- it is a mistake
7 in character only, sir, and has no bearing whatsoever
8 on the meaning of the context.

9 Q Then, I understand that the affidavit was
10 true and correct even though that error existed?

11 A Yes.
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1 MR. LEVIN: I now offer in evidence defense
2 document No. 969 which is the affidavit of SAKURAI,
3 Tokutaro.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Defense document No. 969
6 will receive exhibit No. 2480.

7 (Whereupon, the document above
8 referred to was marked defense exhibit
9 No. 2480 and received in evidence.)

10 MR. LEVIN: I shall proceed to read exhibit
11 No. 2480, omitting the formal parts:

12 "I, SAKURAI, Tokutaro, served in the head-
13 quarters of the (Japanese) Garrison Troops in China
14 from May 1936 to August 1937, and at the same time as
15 an adviser to the Hopei-Chahar Political Committee and
16 as a military adviser to the 29th Army I was in service
17 for the Chinese Army. I had the experience of being
18 on the scene when the Lukouchiao Incident broke out,
19 and was busily engaged in mediating between the
20 Japanese and Chinese Army and was injured at last at
21 the Kwangan Gate when the Kwanganmen Incident occurred.
22 I shall now say a few words about circumstances at the
23 time, chiefly about the Lukouchiao Incident.

24 "a. Japan's attitude towards China.

25 "Japan's attitude towards China was to realize

1 a close relationship with China. And it was often
2 admonished by the commander of the Japanese Garrison
3 troops in China or other commanding officers that the
4 Japanese army should never cause a disturbance with
5 China, but should try to realize a close relationship,
6 especially with the Chinese army, regarding it as a
7 friendly army. It was for the purpose of serving as
8 a wedge between these two armies that I became an
9 adviser to the Chinese army.

10 "b. My Official Duty

11 "My only duty was to assist the instruction
12 and training of the Chinese 29th army while being a
13 conciliator for the two armies. I believed that it
14 was most important to understand each other well in
15 order to bring about a close relationship between the
16 two armies, so I tried my best to inform the Chinese
17 Army as to conditions in Japan and to bring about
18 mutual inspection of as well as the exchange of courtesies
19 between the two armies.
20

21 "Since I had been a professor of the Chinese
22 Military College in Peiping from 1929 to 1931, I was
23 well acquainted with the state of affairs in China,
24 and the commander of the 37th division, Feng Chihian,
25 the vice-commanders, Chang Ling-yun, a brigade commander,
Liu Tzu-chen and another brigade commander, Hsia were

1 my students. These facts helped my work go smoothly.

2 "In carrying out my business, it had been
3 decided that Colonel MATSUI, Takuro, the head of a
4 special service agency in Peiping, should take the
5 measures.

6 "c. The Chinese Army's attitude towards
7 Japan at the time.

8 "The attitude of the upper part of the
9 Chinese army was amicable and friendly. Especially
10 Sung Che-yuan, the commander of the army, was very
11 glad to have me as an adviser and instructed me to
12 try my best to bring about a close relationship between
13 Japan and China, emphasizing its necessity. But the
14 lower officers and soldiers of the Chinese Army were
15 not all friendly towards Japan. There were quite a
16 few of them who were anti-Japanese. I tried under
17 difficulties to enlighten those soldiers. Especially
18 after the outbreak of Hsian Accident, their attitude
19 seemed to grow worse. There were communists even in
20 the army, who, in touch with other communists, instigated
21 the anti-Japanese idea in the army.

22 "d. The day of the outbreak of the Lukouchiao
23 Incident.

24 "I was in the official residence in Peiping
25 on the night of the 7th of July, 1937. At eleven p.m.

1 I got a telephone from the Peiping special service
2 agency saying, 'Trouble between Japanese and Chinese
3 armies has just broken out. Come quickly.' I went to
4 the special service agency at once and was informed
5 about the conditions. Then I went to Chin Te-Chun,
6 the vice-commander of the 29th army, to determine the
7 actual situation by the order of the head of the
8 agency. While I was there it was decided to dispatch
9 a committee from both the Japanese and Chinese sides
10 for mediation and I, being appointed a member of the
11 committee, started in advance with Chou Yung-eh, a
12 major general of the Chinese Army, by car to the
13 Japanese Army to the scene, the north side of Mount
14 Ichimoji. There was a battalion commander ICHIKI.
15 He was about to take the unit to its post, having
16 received an order from the regimental commander,
17 MUTAGUCHI, that he might return the fire because of
18 the repeated illegal firing of the Chinese Army.

19 "I asked the battalion commander to give up
20 the attack against the Yuanping castle for the sake of
21 the people inside. He approved of what I said and
22 seemed to have decided to attack only Lungwangmiao
23 which was the actual point of their firing. Then I
24 went into the Yuanping castle at once and met Mr. Chin,
25 a Chinese battalion commander and asked why they had

1 opened fire on the Japanese army from Lungwangmiao.
2 The battalion commander answered that since there
3 were no soldiers of his command in Lungwangmiao,
4 they might have been bandits or vagabonds, if there
5 had been any firing. So I reported this to the
6 regimental commander ICHIKI through my secretary
7 SAITO, Hisshu.

8 "Nevertheless we heard loud gun reports
9 about 5:40 a.m. from the direction of Lungwangmiao.
10 Then the battalion commander Chin confessed that he
11 had his men at Lungwangmiao, canceling his previous
12 words. He had deceived me.

13 "I inspected the situation from the castle
14 wall with the battalion commander Chin, displaying
15 a white flag. By this time the attack against Lung-
16 wangmiao by the Japanese army had begun. The battalion
17 commander ICHIKI kept his promise and did not attack
18 the Yuanping castle.

19 "As the Chinese army on the west bank of
20 the Yungting River opened fire when the Japanese army
21 reached Lungwangmiao, I ventured to go to the left
22 bank of Yungting River and stopped their firing.

23 "Then I returned to the Yuanping castle and
24 met Mr. Chi, a Chinese regimental commander. We con-
25 sulted regarding how to prevent the further spread of

1 the incident and we decided to report to our super-
2 iors. I had Captain TERAHIRA on the staff of the
3 Peiping special service agency return to Peiping to
4 report this to Colonel MATSUI.

5 "A truce agreement was concluded on the 9th
6 of July. I went to Lungwangmiao with a member of the
7 Chinese staff, Chou. There were many dead bodies of
8 the Chinese army, bullets and cartridges dispersed in
9 all directions. Seeing this I was convinced that the
10 Chinese army had been occupying Lungwangmiao.

11 "There I talked with a Japanese captain and
12 non-commissioned officers who had encountered the
13 incident on the night of the 7th of July and was in-
14 formed about the circumstances of the night when they
15 were attacked all of a sudden by the Chinese army.

16 "e. Circumstances After the Incident.

17 "After this there were gun reports at night,
18 when I was staying inside the Yuanping castle with
19 Chinese security units and was watching operations.
20 After inquiries I often found that the Japanese army
21 did no firing but the Chinese army did, saying the
22 Japanese had shot at them.

23 "One night there was a violent bombardment
24 from the Chinese army prompted by the shooting of
25 firecrackers in a village where there were no garrison

1 troops between both armies. I thought it to be a
2 very serious incident as it seemed to me to be a
3 stratagem of somebody who was between the armies
4 without belonging to either one.

5 "After this many illegal actions were commit-
6 ted by the Chinese army.

7 "I myself was often shot at by Chinese
8 sentries.

9 "Among many illegal actions I know personally
10 particularly of an incident in which a Japanese
11 soldier (TN: or soldiers) was shot at the outside of
12 the Yungting gate and another of a Japanese cavalry-
13 man (TN: or cavalrymen) being shot at Tuanchia, south
14 of Nanyuan. I myself went to claim the bodies.

15 "In those days the Chinese side instigated
16 the anti-Japanese idea very actively through news-
17 papers and radio and the communist party in Peiping
18 as well as students from northeastern China became
19 conspicuous by their anti-Japanese speeches and actions.

20 "f. The Kwanganmen Accident.

21 "Although there were three thousand residents
22 inside the Peiping castle, there were only fifty of
23 them left after the Japanese army had been to the
24 Fengtai districts. It was decided then to move a
25 battalion back inside from Fengtai, for it was very

1 dangerous to have only fifty people there if worse
2 came to worse.

3 "In order to avoid misunderstandings we
4 asked the Chinese authorities' consent beforehand. But
5 I went to the Kwangan gate and waited on the castle
6 wall for the Japanese army with a Chinese Colonel
7 Chang Tsu-to in case an incident occurred.

8 About 7:00 p.m. the Japanese army were
9 approaching the castle gate in vehicles. When the
10 first few vehicles had passed the first gate and
11 approached the second, the Chinese army on the castle
12 wall suddenly attacked the Japanese army, opening fire
13 and throwing grenades. About half of the Japanese
14 troops passed at high speed through the second gate,
15 under fire.

16 "The shooting was stopped after great dif-
17 ficulty as Chinese company commander Wang and I,
18 amazed at this sudden accident, desperately tried to
19 stop it.

20 "Then I advised sending Colonel Chang Tsu-to
21 who had been with us to Mr. Sung Che-yuan to report
22 on the circumstances. He hurried to Mr. Sung at once.

23 "Then while I was still on the scene with my
24 interpreter trying to mediate the interpreter was shot
25 dead and I was shot in the left thigh with a pistol

1 by a Chinese soldier. I was taken unaware and
2 immediately jumped down from the wall. The wall was
3 ten metres high but fortunately, I received only a
4 fracture of the right leg. If I had remained on the
5 wall I would have been killed.

6 "As I was resting in a private house, Chou,
7 a member of the staff, was sent for me. I was taken
8 in his car to the special service agency and after
9 making a detailed report was removed to the military
10 hospital.

11 "I wrote a report about this incident and
12 presented it to NATSUI, head of the special service
13 agency, on the 26th of July. Since this report is in
14 my possession, I am presenting it together with
15 affidavit for information."

16 The report follows:

17 "1. Situation Before the Affair.

18 "On the morning of 27 July upon receipt of
19 the telegram to the effect that the 2d Battalion (minus
20 one company), of the 2d Regiment Infantry was to enter
21 Peiping from Fengtai to protect the Japanese residents
22 in the city, Adviser MAKAJIMA, with Interpreter SAITO
23 set forth with the Battalion on a liaison mission. The
24 telegram stated that the battalion would enter from
25 Kwanganmen about 4:00 p.m. As it seemed wise to avoid

1 the battalion coming from Fengtai, while I went to
2 the Chinese Military Government Headquarters. I
3 found that both Brigade Commander Liu and Chief of
4 Staff Hsu had gone to Chin-teh She and were absent,
5 but I came back to the agency and tried to negotiate
6 about the opening of the gate. About 5:30 p.m. there
7 was a telephone from Hopei-Chahar concerning the
8 opening of the gate, and they informed us that
9 Secretary Sung Che-yuan, Chang Tsu-te and a member
10 of Diplomatic Committee Lin Keng-yu would be the
11 witnesses of the Japanese army's passing of the gate.
12 Therefore I went to the Kwangan Gate again with
13 KAWAMURA, 1st Class civilian employee, and YOSHITOMI,
14 a member of the special service agency.

15 "2. The Incident.

16 "The situation until immediately after the
17 vanguard of the troops had passed the gate.

18 "I had an interview with Brigade Commander
19 Wang at the Kwangan Gate police detachment and got the
20 information that the order concerning the opening of
21 the gate was issued already from Hopei-Chahar. I
22 went up on the wall accompanying Brigade Commander
23 Wang, made the Chinese soldiers thoroughly understand
24 that they were absolutely forbidden to fire at the
25 Japanese Army making the entry and made them lay aside

1 giving the Chinese enough time to excite their sus-
2 picion by informing them of the entry too early
3 consequently making the entry impossible, we tele-
4 phoned to Chang Wuo-chiin, Secretary to Chin Te-chun,
5 to come to the special service agency by 3:30 p.m.,
6 but he did not come. At that time, Chief of special
7 service agency, MATSUI, had gone to hand over the
8 ultimatum concerning the Langfang Incident of the
9 previous day to Sung Che-yuan in Chin-teh she. I,
10 Adviser SAKURAI, went to the Kwangan Gate in his
11 place with KAWAMURA, Yoshio, 1st Class civilian
12 employee, and some military policemen at 3:50 p.m.

13 "At that time Interpreter SAITO was there
14 for purposes of liaison. He negotiated with Wang,
15 37th Regimental Commander with whom he was acquainted,
16 telephoned to the Chinese Military Government Head-
17 quarters and to Brigade Commander Liu Tsu-chen, and it
18 was arranged to open the gate. Therefore we were about
19 to order SAITO to contact (the coming battalion) re-
20 garding this situation when a tall man in white two-
21 piece Chinese suit after speaking with Mayor Chin over
22 the telephone, called up the company commander again
23 and had him to close the gate and prepare for fighting
24 on the wall, saying that was the order of Mayor Chin.
25 At this situation we ordered SAITO to make contact with

1 the battalion coming from Fengtai, while I went to
2 the Chinese Military Government Headquarters. I
3 found that both Brigade Commander Liu and Chief of
4 Staff Hsu had gone to Chin-teh She and were absent,
5 but I came back to the agency and tried to negotiate
6 about the opening of the gate. About 5:30 p.m. there
7 was a telephone from Hopei-Chahar concerning the
8 opening of the gate, and they informed us that
9 Secretary Sung Che-yuan, Chang Tsu-te and a member
10 of Diplomatic Committee Lin Keng-yu would be the
11 witnesses of the Japanese army's passing of the gate.
12 Therefore I went to the Kwangan Gate again with
13 KAWAMURA, 1st Class civilian employee, and YOSHITOMI,
14 a member of the special service agency.

15 "2. The Incident.

16 "The situation until immediately after the
17 vanguard of the troops had passed the gate.

18 "I had an interview with Brigade Commander
19 Wang at the Kwangan Gate police detachment and got the
20 information that the order concerning the opening of
21 the gate was issued already from Hopei-Chahar. I
22 went up on the wall accompanying Brigade Commander
23 Wang, made the Chinese soldiers thoroughly understand
24 that they were absolutely forbidden to fire at the
25 Japanese Army making the entry and made them lay aside

1 and cover up their guns and take a rest. Then I
2 made a Chinese policeman outside the gate keep con-
3 tact with Adviser NAKAJIMA (he was situated at a
4 coaling station by the railway crossing 200 metres
5 west of the gate).

6 "After a while contact was made by Interpreter
7 SAITO who got out of an automobile and went outside
8 the gate. At this time Secretary Chang came. After
9 I had Brigade Commander Wang explain the situation
10 to the Chinese soldiers again so that there should
11 be no misunderstanding, I had them open up the gate
12 halfway.

13 "At that time YOSHITOMI was under the gate;
14 SAITO outside the gate by the bridge; KAWAMURA, Chang
15 and I at the north side of the two-storied gate on
16 the wall gate. At some minutes past 6:00 p.m. the
17 Japanese motor transport troops proceeded with
18 Adviser NAKAJIMA's car at the head. As they were
19 just about to enter through the gate, suddenly a few
20 guns were fired 50 meters south of the gate. Following
21 this example, the Chinese soldiers on the wall began
22 to fire without permission. Therefore I, with KAWA-
23 MURA, immediately gave a strict command to the light
24 machine guns at the north side of the two-storied gate
25 to cease fire and also ordered the light machine guns

1 which were sweeping the road cease fire and accompany-
2 ing Brigade Commander Wang went to stop the firing of
3 the Chinese soldiers at the east side of the two-
4 storied gate and on the wall. At this time, about
5 ten of the Japanese trucks had passed the gate already
6 but the Chinese soldiers on the east two-storied gate
7 continued firing and throwing hand grenades. I wit-
8 nessed the main body of the Japanese motor transporta-
9 tion troops stop and begin to get off the trucks. As
10 the result of making every effort and giving a strict
11 command to stop firing, we were able to stop firing on
12 the wall. Immediately I had Chang go to make contact
13 with Sung Che-yuan. KAWAMURA and I, holding Brigade
14 Commander Wang, gave a strict order to the Chinese,
15 'Secretary Chang is keeping contact with Sun. You
16 are absolutely forbidden to fire from now.' .
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SAKURAI

DIRECT

1 "2. The situation from the beginning
2 of the attack by the Japanese within and without
3 the gate until I made escape.

4 "Until 7 A. M. some of the Chinese
5 fired but somehow we managed to make them stop.
6 When the Japanese within and without the gate
7 began their activities at some minutes past
8 7 P. M., the Chinese began to fire from the
9 wall at the Japanese on both sides. Meanwhile,
10 some Chinese infuriated by a few casualties
11 inflicted on the Chinese situated by the north
12 side of the eastern two-storied gate, got close
13 to me and KAWAMURA crying, 'Kill the Japanese.'
14 I, holding Brigade Commander Wang, tried to
15 control the Chinese but in vain. First of all
16 the Chinese of 132d Division fired from a dis-
17 tance of 10 metres. Then light machine guns at
18 the north side of the west two-storied gate
19 began to fire. Adviser KAWAMURA seemed to have
20 been hit by several bullets trying to prevent
21 them from firing, and from the same direction
22 several Chinese rushed forward towards us with
23 Chinese halberds and pistols. At this time, also
24 from the direction of the eastern two-storied
25 gate, ten or more Chinese came forward and one

SAKURAI

DIRECT

1 bullet hit my left leg. Now that there was no use
2 to fight, I grappled with Brigade Commander Wang,
3 and knocking him down I jumped down to the yard
4 between the walls (the north part of the place
5 between the eastern and western two-storied gates),
6 struck my right leg on the concrete roof, falling
7 down from the roof and lighting on the earth on my
8 right shoulder.

9 "As I was being fired upon and the Chinese
10 on the wall were throwing hand grenades at this time,
11 I entered the barn seeking dead angle. About this
12 time the firing on the wall was very intense, and I
13 presumed the Japanese army to be attacking from within
14 and without the gate. In the yard between the gate
15 walls there was not a single Chinese soldier and
16 though I was sure that they would not come to search
17 for me during the fighting, I prepared some sticks
18 and bricks by way of precaution. Intermittently
19 firing was heard, but at sunset it became calm for
20 a little while. During the night sometimes firing was
21 heard.
22

23 "I could not tell whether it was the Japanese
24 attacking from within and without the gate or the
25 nervous Chinese firing wildly at random.

"I took a rest for several hours leaving my

1 fate to Heaven, then helped by a Chinese policeman
2 who knew me and came to search for me calling my name
3 I went to the Kwangen Gate Branch of Police, met with
4 Staff Officer Chou who came there to search for me.
5 Then I came back to the Special Service Agency and
6 entered the Army Hospital.

7 "3. The Numerical Strength of the Chinese
8 Army in the Fighting.

9 "In this incident, the strength of the
10 enemy which was at the Kwangen Gate was sixty soldiers
11 commanded by the 37th Brigade Commander Wang and
12 another 60 soldiers of the 132d Division which were
13 dispatched to take the place of the former. The
14 former were situated west of the western two-storied
15 gate and the latter on the eastern two-storied gate
16 and on the wall.

17 "This report is to Colonel MATSUI.

18 "I certify that this report was written
19 by me."

20 You may cross-examine if you desire.

21 THE PRESIDENT: Mr. Tavenner.

22 MR. TAVENNER: May it please the Tribunal,
23 in an effort to avoid duplication of cross-examina-
24 tion, we do not propose to cross-examine this witness.

25 THE PRESIDENT: Mr. Levin.

WACHI, T.

DIRECT

1 MR. LEVIN: I ask that the witness be
2 released on the usual terms.

3 THE PRESIDENT: He is released accordingly.

4 (Whereupon, the witness was
5 excused.)

6 THE PRESIDENT: What is the name of the
7 next witness, Mr. Levin?

8 MR. LEVIN: We now call the witness, WACHI,
9 Tsunezo.

10 - - -

11 T S U N E Z O W A C H I, called as a witness on
12 behalf of the defense, being first duly sworn,
13 testified through Japanese interpreters as
14 follows:

15 DIRECT EXAMINATION

16 BY MR. LEVIN:

17 Q Will you please state your name, age, and
18 address?

19 A My name is Tsunezo WACHI; I am forty-seven
20 years old; and I reside at No. 201 Kicks Joji, Tokyo
21 To -- No. 501.

22 THE MONITOR: No. 500.

23 Q There will be handed to you defense document
24 No. 594. Will you please state whether your signature
25 appears thereon?

WACHI, T.

DIRECT

1 A Yes.

2 Q Are the contents of said document true and
3 correct?

4 A I would like to make two corrections. On
5 paragraph 2 I would like to make a correction in
6 time. "Seven o'clock" should be corrected to
7 "seventeen hours."

8 THE MONITOR: This evening, "seven o'clock,"
9 should be changed to "seventeen hours."

10 In paragraph 3 the words "today" should
11 be corrected to "that day." That is all.

12 Q As corrected then, the document is true
13 and correct?

14 A Yes.

15 MR. LEVIN: I offer in evidence defense
16 document No. 594, which is the affidavit of WACHI,
17 Tsunezo, as corrected.

18 THE PRESIDENT: Admitted on the usual terms.

19 CLERK OF THE COURT: Defense document No.
20 594 will receive exhibit No. 2481.

21 (Whereupon, the document above
22 referred to was marked defense exhibit
23 No. 2481 and received in evidence.)

24 MR. LEVIN: Omitting the formal parts, I
25 am reading the affidavit:

WACHI, T.

DIRECT

1 "1. In the year 1922, I graduated from
2 the Naval Academy and was serving in the Japanese
3 naval as an officer. In 1937 I was a lieutenant-
4 commander and the first director of the Naval Radio
5 Receiving Office, located at Owada, Saitam Prefec-
6 ture. In this office all the foreign radio commu-
7 nications were intercepted.

8 "2. It was a little after 3:00 p. m. on
9 Saturday, July 10, 1937, that an urgent code tele-
10 gram dispatched by a U. S. naval officer in Peking --
11 the code address 'wife' to the Headquarters of U. S.
12 Naval Operations -- the code address 'Opnam' was
13 intercepted. As it was in a simple cipher, it
14 could easily be decoded. The gist was as follows:

15 "According to the information received
16 from a certain reliable source, the junior group
17 of the 29th Army under the command of Sung Che-Yuan
18 is not satisfied with the agreement concluded on
19 the spot and at 17 hours they will start their
20 attack against the Japanese forces.'

21 "3. I considered this telegram very
22 important and at once telephoned to the Naval
23 General Staff, but as the time happened to be a
24 Saturday afternoon and there was nobody remaining
25 there, I called up Commander YANAGISAWA, the

WACHI, T.

DIRECT

1 adjutant of the Navy Ministry, and duly made this
2 report.

3 "4. I heard later that the navy at once
4 transmitted the report to the adjutant of the war
5 ministry, but, at first the army did not believe
6 it as it happened immediately after the agreement,
7 was made on the spot on that very day. However,
8 it was a fact that from the evening of the 10th as
9 per the American telegram, China began to attack,
10 breaking the agreement of that day and the incident
11 became uncontrollable."

12 THE PRESIDENT: We will adjourn until half-
13 past nine tomorrow morning.

14 (Whereupon, at 1600, an adjournment
15 was taken until Wednesday, 23 April 1947, at
16 0930.)
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